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Thursday
April 15, 1999

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WASHINGTON, DC

WHEN: April 20, 1999 at 9:00 am.

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Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Presidential Documents

Title 3—

The President

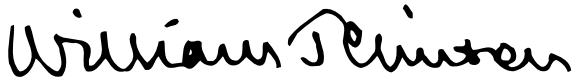
Presidential Determination No. 99–21 of April 8, 1999

Eligibility of the Republic of Croatia To Be Furnished Defense Articles and Services Under the Foreign Assistance Act and Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 503(a) of the Foreign Assistance Act of 1961, as amended, and section 3(a)(1) of the Arms Export Control Act, I hereby find that the furnishing of defense articles and services to the Government of the Republic of Croatia will strengthen the security of the United States and promote world peace.

You are authorized and directed to report this finding to the Congress and to publish it in the **Federal Register.**



THE WHITE HOUSE,
Washington, April 8, 1999.

[FR Doc. 99–9615
Filed 4–14–99; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1477

RIN 0560–AF75

1998 Single-Year and Multi-Year Crop Loss Disaster Assistance Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule sets forth the terms and conditions of the 1998 Single-Year and Multi-Year Crop Loss Disaster Assistance Program (CLDAP). The purpose of the program is to provide payments to eligible producers who suffered losses due to an eligible disaster in crop year 1998, or in at least 3 of the crop years from 1994 through 1998.

DATES: Effective April 15, 1999.

FOR FURTHER INFORMATION CONTACT: Rebecca Davis, (202) 720–9882.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be economically significant and therefore has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Farm Service Agency (FSA) and the Commodity Credit Corporation (CCC) are not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought concerning provisions of this rule, the administrative remedies must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act and Small Business Regulatory Enforcement Fairness Act

The provisions contained in this rule are authorized by the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 1999 (''1999 Act'') (Pub. L. 105–277, 112 Stat.2681). Section 1133 of the 1999 Act provides that such rules shall be issued as soon as practicable and without regard to: (1) the notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act''). Accordingly, these regulations are being issued as a final rule without a notice and comment period, and the forms and the collection of information do not require prior OMB approval.

In addition, this rule was determined to be a major rule as defined in the Small Business Regulatory Enforcement Act of 1996 (SBREFA). Section 1133 of the 1999 Act provides that these regulations shall use the authority provided under section 808 of SBREFA that allows an agency to promulgate a rule at such time as it determines necessary, notwithstanding the Congressional review of major regulations provided for in section 801 of SBREFA. It is hereby determined that delaying this rule would be contrary to the public interest because of the need for expeditious implementation of the rule as expressed in the text of the 1999 Act. Accordingly, this rule is effective upon publication.

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Background

This final rule adds 7 CFR part 1477 setting forth the terms and conditions under which producers who suffered crop losses as a result of natural disaster may apply for benefits to compensate for their losses for the crop year 1998 or for at least 3 of the years from 1994 through 1998 as authorized by the 1999 Act.

Producers who seek benefits under this subpart must file an application for benefits during the sign-up period, February 1, 1999, through April 9, 1999, or other ending date as determined by the Deputy Administrator. False certification carries strict penalties; and the Department will spot-check and validate applications. Because funding for the program is limited, national factors for reducing payments will be determined after the end of sign up, if necessary, to ensure that total outlays do not exceed the amount of funds made available under this program.

The rules set a payment limit on the amount of benefits that can be received and limit the multi-year benefits to ''producers'' with the qualifying history

for which purposes changes in the farming operation will be considered to involve different producers. This will allow the history determinations to reflect the actual composition of farms during the history period, consistent with the purposes of the 1999 Act. It will at the same time permit the agency to accurately verify losses. Further, as to the multi-year program, the rules build on existing programs which have identified the general Federal policy on when crop losses should be covered. This, as well, will permit the verification of losses. Existing policy has emphasized the importance of crop insurance where such insurance is available and in cases of non-insurable crops (those for which Federal crop insurance is not available) has allowed only for coverage in limited instances in which there is a verified area-wide loss. However, these programs have never provided full relief and this rule will partially alleviate the shortfalls in those Federal programs for farmers who have had long-term losses. The Secretary has been given a wide discretion in the implementation of the 1999 Act and these rules will be consistent with existing Federal policies and with the understanding of the desire of Congress to attempt to alleviate the shortcomings in current programs. These rules will, in addition, allow relief to be made available quickly, and effectively, within the limits of the funding available for this program.

List of Subjects in 7 CFR Part 1477

Disaster assistance, emergency assistance, reporting and recordkeeping requirements.

For the reasons set forth in the preamble, a new 7 CFR part 1477 is added to subchapter B of 7 CFR Chapter XIV to read as follows:

PART 1477—1998 SINGLE-YEAR AND MULTI-YEAR CROP LOSS DISASTER ASSISTANCE PROGRAM

Subpart A—General Provisions

Sec.

1477.101 Applicability.
1477.102 Administration.
1477.103 Definitions.
1477.104 Producer eligibility.
1477.105 Time for filing application.
1477.106 Limitation on payments and other benefits.
1477.107 Crop insurance premium discounts.
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Subpart B—1998 Single-Year Crop Loss Disaster Assistance Program

1477.201 Single-year crop losses.
1477.202 Calculating rates and yields.
1477.203 Production losses, producer responsibility.
1477.204 Determination of production.
1477.205 Calculation of acreage for crop losses other than prevented planted.
1477.206 Calculation of prevented planted acreage.
1477.207 Quality adjustments to production.
1477.208 1999 crop losses.
1477.209 Value loss crops.
1477.210 Other Specialty crops.

Subpart C—Multi-Year Crop Loss Disaster Assistance Program

1477.300 Multi-year crop losses.

Authority: Sec. 1101 and 1102 of Pub. L. 105–277, 112 Stat.2681; 15 U.S.C. 714b and 714c.

Subpart A—General Provisions

§ 1477.101 Applicability.

(a) This part sets forth the terms and conditions applicable to the 1998 Crop Loss Disaster Assistance Program. Under sections 1101 and 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (''1999 Act'') (Pub. L. 105–277, 112 Stat. 2681), the Secretary of Agriculture will make disaster payments available to certain producers who have incurred losses in quantity or quality of their crops due to disasters. Producers will be able to receive benefits under this part for losses to 1998 crops, or losses occurring in at least 3 years for which payments were received for the period 1994 through 1998, as determined by the Secretary. Accordingly, this part contains three subparts. Subpart A contains general provisions applicable to both the single-year and multi-year aspects of the 1998 Crop Loss Disaster Assistance Program, which are contained in Subparts B and C, respectively.

(b) In accordance with section 1102(g)(2) of the 1999 Act, the Secretary has authorized use of a portion of the funds authorized by the Act to establish crop insurance premium discounts for the 1999 crop year (2000 crop year for citrus fruit, avocados in California, and macadamia nuts in Hawaii). This part establishes provisions and requirements for implementation of those discounts.

§ 1477.102 Administration.

(a) The program will be administered under the general supervision of the Executive Vice President, Commodity Credit Corporation (CCC), and shall be carried out in the field by State and county Farm Service Agency (FSA) committees.

(b) State and county FSA committees and representatives do not have the authority to modify or waive any of the provisions of this part.

(c) The State FSA committee shall take any action required by this part which has not been taken by a county FSA committee. The State FSA committee shall also:

(1) Correct or require a county FSA committee to correct any action taken by such county FSA committee which is not in accordance with this part; and

(2) Require a county FSA committee to withhold taking or reverse any action which is not in accordance with this part.

(d) No delegation herein to a State or county FSA committee shall prevent the Deputy Administrator from determining any question arising under the program or from reversing or modifying any determination made by a State or county FSA committee.

(e) The Deputy Administrator may authorize the State and county committees to waive or modify deadlines or other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the program or when, in his discretion, it is determined that an exception should be allowed to provide for a more equitable distribution of benefits consistent with the goals of the program provided for in this part.

§ 1477.103 Definitions.

The definitions in this section shall be applicable for all purposes of administering the 1998 Crop Loss Disaster Assistance Program and all subparts of this part.

Actual production means the total quantity of the crop appraised, harvested or which could have been harvested as determined by the county or State FSA committee in accordance with instructions issued by the Deputy Administrator.

Additional coverage means with respect to insurance plans of crop insurance providing a level of coverage equal to or greater than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

Appraised production means production determined by FSA, RMA, FCIC, a company reinsured by FCIC, or other appraiser acceptable to CCC, that was unharvested but which was determined to reflect the crop's yield potential at the time of appraisal.

Approved yield means the amount of production per acre, computed in accordance with FCIC's Actual Production History Program (7 CFR part 400, subpart G) or for crops not included under 7 CFR part 400, subpart G, the yield used to determine the guarantee. For crops covered under the Noninsured Crop Disaster Assistance program, the approved yield is established according to part 1437 of this title.

Aquaculture means the reproduction and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

Aquaculture facility means any land or structure including, but not limited to, a laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

Aquacultural species means aquacultural species as defined in part 1437 of this chapter.

CCC means the Commodity Credit Corporation.

Catastrophic risk protection means the minimum level of coverage offered by FCIC.

Catastrophic Risk Protection Endorsement means the relevant part of the Federal crop insurance policy that contains provisions of insurance that are specific to catastrophic risk protection.

Control county means: for a producer with farming interests in only one county, the county FSA office in which the producer's farm(s) is administratively located; for a producer with farming interests which are administratively located in more than one county FSA office, the county FSA office designated by FSA to control the payments received by the producer.

County committee means the local FSA county committee.

Crop of economic significance means a crop with a value equal to ten percent (10%) or more of the total value of the producer's share of all crops grown in the county for the relevant crop year. However, an amount will not be considered economically significant if the potential liability under the Catastrophic Risk Protection Endorsement is equal to or less than the administrative fee required with respect to such insurance for the crop, or, if applicable, the crop type or variety.

Crop insurance means an insurance policy reinsured by the Federal Crop Insurance Corporation under the provisions of the Federal Crop Insurance Act, as amended.

Cropland means cropland as defined in part 718 of this title.

Crop year means: for insured and uninsured crops, the crop year as defined according to the applicable crop insurance policy; and for noninsurable crops, the year harvest normally begins for the crop, except the crop year for all aquacultural species and nursery crops shall mean the period from October 1 through the following September 30, and the crop year for purposes of calculating honey and tree losses shall be the period running from January 1 through the following December 31.

Deputy Administrator means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA), or a designee.

Disaster means damaging weather, including drought, excessive moisture, hail, earthquake, freeze, tornado, hurricane, typhoon, volcano, excessive wind, excessive heat, or any combination thereof; and shall also include a related condition and all eligible loss conditions, excluding price risk for 1998 single-year losses, as determined by the crop insurance policy, if RMA has made an eligible loss determination.

Double-cropped means a condition in which a subsequent crop of a different commodity is planted on the same acreage as the first crop within the same crop year if the county committee determines both crops were or could have been carried to harvest.

End use means the purpose for which the harvested crop is used, such as fresh, processed or juice.

Entity means any legal organization or joint venture of any kind, including, but not limited to, corporations, trusts and partnerships.

Expected market price (price election) means the price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting, packing, etc.

Expected production means, for an agricultural unit, the historic yield multiplied by the number of planted or prevented acres of the crop for the unit.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

Final planting date means the date established by RMA for insured and uninsured crops by which the crop must be initially planted in order to be insured for the full production guarantee or amount of insurance per acre. For noninsurable crops, the final planting date is the end of the planting period for the crop as determined by CCC.

Flood prevention means with respect to aquacultural species, placing the aquacultural facility in an area not prone to flood; in the case of raceways, providing devices or structures designed for the control of water level; and for nursery crops, placing containerized stock in a raised area above expected flood level and providing draining facilities, such as drainage ditches or tile, gravel, cinder or sand base.

FSA means the Farm Service Agency.

Good nursery growing practices means utilizing flood prevention, growing media, fertilization to obtain expected production results, irrigation, insect and disease control, weed, rodent and wildlife control, and over winterization storage facilities.

Growing media means:

(1) For aquacultural species, media that provides nutrients necessary for the production of the aquacultural species and protects the aquacultural species from harmful species or chemicals; and

(2) For nursery crops, media designed to prevent ''root rot'' and other media-related problems through a well-drained media with a minimum 20 percent air pore space and pH adjustment for the type of plant produced.

Harvested means: For insured and uninsured crops, harvested as defined according to the applicable crop insurance policy; for noninsurable single harvest crops, that a crop has been removed from the field, either by hand or mechanically, or by grazing of livestock; for noninsurable crops with potential multiple harvests in one year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least one mature crop from the field; and for mechanically harvested noninsurable crops, that the crop has been removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not. Grazed land will not be considered harvested for the purpose of determining an unharvested or prevented planting payment factor.

Historic yield means, for a unit, the higher of the county average yield or the producer's approved yield.

Individual stand means, with respect to trees, an area of eligible trees that are tended by an eligible producer as a single operation, whether or not the trees are planted in the same field or

similar location, as determined by the county committee. Eligible trees not in the same field or similar location may be considered to be separate individual stands if county committee determines that there are significantly differing levels of loss susceptibility.

Insurance is available means when crop information is contained in RMA's county actuarial documents for a particular crop and a policy can be obtained through the RMA system, except if the Group Risk Plan of crop insurance was the only plan of insurance available for the crop in the county in the 1998 crop year, insurance is considered not available for that crop.

Insured crops means those crops covered by crop insurance pursuant to 7 CFR Chapter IV and for which the producer purchased either the catastrophic or buy-up level of crop insurance so available.

Intended crop means an insured crop which the producer timely indicates for RMA insurance purposes as the crop the producer intends to produce.

Limited coverage means plans of crop insurance offering coverage that is equal to or greater than 50 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC, but less than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

Multi-use crop means a crop intended for more than one end use during the calendar year such as grass harvested for seed, hay, and/or grazing.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

Noninsurable crops means those crops for which crop insurance was not available.

Normal mortality means the percentage of damaged or dead trees in the individual stand or the percentage of dead aquacultural species that would normally occur during the crop year.

Operator means operator as defined in part 718 of this title.

Palmer Drought Severity Index means the meteorological index calculated by the National Weather Service to indicate prolonged and abnormal moisture deficiency or excess.

Pass-through funds means revenue that goes through, but does not remain in, a person's account, such as money collected by an auction house for the sale of livestock which is subsequently paid to the sellers of the livestock, less a commission withheld by the auction house.

Person means person as defined in part 1400 of this chapter, and all rules with respect to the determination of a person found in that part shall be applicable to this part. However, the determinations made in this part in accordance with 7 CFR part 1400, subpart B, Person Determinations, shall also take into account any affiliation with any entity in which an individual or entity has an interest, irrespective of whether or not such entities are considered to be engaged in farming.

Planted acreage means land in which seed, plants, or trees have been placed, appropriate for the crop and planting method, at a correct depth, into a seedbed that has been properly prepared for the planting method and production practice normal to the area as determined by the county committee.

Producer means producer as defined in part 718 of this title.

Related condition means with respect to disaster, a condition related to a disaster that causes deterioration of a crop such as insect infestation, plant disease, or aflatoxin that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest as determined in accordance with instructions issued by the Deputy Administrator.

Reliable production records means evidence provided by the producer that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, that are determined acceptable by the county committee.

Repeat crop means with respect to a producer's production, a commodity that is planted or prevented from being planted in more than one planting period on the same acreage in the same crop year.

RMA means the Risk Management Agency.

Salvage value means the dollar amount or equivalent received by the producer for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use, except for crops with intended use of grain, but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped.

Secondary use value means the value determined by multiplying the quantity of secondary use times the CCC-established price for this use.

Secretary means the Secretary of the United States Department of Agriculture.

Substitute crop means an alternative crop whose sales closing date has passed and that is planted on acreage that is prevented from being planted to an intended crop or where an intended crop is planted and fails.

Trees means maple trees for syrup, or orchard trees grown for commercial production of fruits or nuts.

Uninsured crops means those crops for which Federal crop insurance was available, but the producer did not purchase insurance.

Unit means, unless otherwise determined by the Deputy Administrator, basic unit as described in part 457 of this title which, for ornamental nursery production shall include all eligible plant species and sizes.

Unit of measure means:

(1) For all insured and uninsured crops, the FCIC-established unit of measure;

(2) For aquacultural species, a standard unit of measure such as gallons, pounds, inches or pieces, established by the State committee for all aquacultural species or varieties;

(3) For Christmas trees, a plant or tree;

(4) For turfgrass sod, a square yard;

(5) For maple sap, a gallon; and

(6) For all other crops, the smallest unit of measure which lends itself to the greatest level of accuracy with minimal use of fractions, as determined by the State committee.

United States means all 50 States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands and Guam.

USDA means United States Department of Agriculture.

Value loss crop will have the meaning assigned in part 1437 of this chapter.

Verifiable production records means evidence that is used to substantiate the amount of production reported and that can be verified by CCC through an independent source.

§ 1477. 104 Producer eligibility.

(a) Producers in the United States will be eligible to receive disaster benefits under this part only if they have suffered either:

(1) 1998 crop losses as a result of a disaster and as further specified in Subpart B; or

(2) Multi-year crop losses as a result of a disaster and as further specified in Subpart C.

(b) Payments may be made for losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has

authority to enter into a contract for the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(c) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title, for the year or years for which benefits are sought.

(d) The provisions of paragraph (c) of this section do not apply to producers receiving benefits under this part for value loss crops.

§ 1477.105 Time for filing application.

(a) Applications for benefits under Subpart B, the 1998 Crop Loss Disaster Assistance Program Single Year 1998 Losses, shall be filed before the close of business on April 9, 1999, in the county FSA office serving the county where the producer's farm is located for administrative purposes.

(b) Applications for benefits under Subpart C, the1998 Crop Loss Disaster Assistance Program Multi-year Losses, shall be filed before the close of business on April 9, 1999, with the county FSA office designated as the producer's control county.

(c) The Deputy Administrator may grant general exceptions to these deadlines for filing applications.

§ 1477.106 Limitations on payments and other benefits.

(a) A producer may receive disaster benefits under either subpart B or C, but not both.

(b) A producer qualifying for disaster benefits under both subparts B or C, may receive whichever amount is greater as calculated according to this part.

(c) Payments will not be made under this subpart for grazing losses. Further, the Deputy Administrator may divide crops based on loss susceptibility, yield, and other factors.

(d) No person shall receive more than a total of $80,000 in disaster benefits under this part. No person shall receive more than $25,000 in disaster benefits under this part for tree losses.

(e) No person shall receive disaster benefits under this part in an amount that exceeds the value of the expected production for the relevant period as determined by CCC.

(f) A person who has a gross revenue in excess of $2.5 million for the 1997 tax year shall not be eligible to receive disaster benefits under this part. If the person does not have a 1997 tax year because the entities were dissolved in a prior year, the last tax year for the person will be used. Gross revenue includes the total income and total gross receipts of the person, before any reductions. Gross revenue shall not be adjusted, amended, discounted, netted or modified for any reason. No deductions for costs, expenses or pass-through funds will be deducted from any calculation of gross revenue. For making this determination, gross revenue means the total gross receipts received from farming or ranching operations if the person receives more than 50 percent of such person's gross income from farming or ranching; or the total gross receipts received from all sources if the person receives 50 percent or less of such person's gross receipts from farming and ranching.

(g) Payment eligibility under this part shall be in addition to whatever eligibility the producer may have to other payments including but not limited to:

(1) Payments under the noninsured crop disaster assistance program established under the Agricultural Market Transition Act (7 U.S.C. 7333);

(2) Crop insurance indemnities provided under the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*);

(3) Emergency loans made available under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 *et seq.*);

(4) Payments received by a person for participation in a Production Flexibility Contract authorized under Title 1 of the Agricultural Market Transition Act (7 U.S.C. 7211 *et seq.*); and

(5) Market Loss Assistance payments made under § 1111 of the 1999 Act.

(h) In the event the total amount of applications for disaster benefits under this part exceeds the available funds, payments shall be reduced by a uniform national percentage. Such reductions shall be applied before any determination of limits on compensation due to multiple USDA benefits and after the imposition of applicable payment limitation and gross revenues caps.

§ 1477.107 Crop insurance premium discounts.

(a) A crop insurance premium discount is available to all producers who have limited or additional coverage crop insurance policies for the 1999 crop year (for the 2000 crop year for citrus fruit, Avocados in California, and Macadamia Nuts in Hawaii) as follows:

(1) Producers of crops that have sales closing dates for the 1999 crop year (2000 crop year for citrus fruit, avocados in California, and macadamia nuts in Hawaii) on or after July 31, 1998, and on or before February 15, 1999, must have by the following dates purchased limited or additional coverage and submitted their acreage and production reports:

States	Application deadline	Production/acreage reporting date
Arizona, Florida, Georgia, Hawaii, Louisiana, Mississippi, and South Carolina.	February 28, 1999	April 15, 1999.
All other States	March 15, 1999	April 30, 1999.

(2) For crops with a final planting date on or after December 31, 1998, but before August 15, 1999, the acreage reporting date will be the later of the date shown in paragraph (a)(1) of this section or the acreage reporting date specified in the producer's crop insurance policy.

(3) For crops that have sales closing dates for the 1999 crop year (2000 crop year for citrus fruit, avocados in California, and macadamia nuts in Hawaii) after February 15, 1999, producers must purchase limited or additional coverage by the sales closing date for the applicable crop.

(b) Producers who are currently insured by the sales closing date for the applicable crop may not:

(1) Lower their insurance coverage or transfer to another insurance provider for crops with extended dates specified in paragraph (a)(1) of this section; or

(2) Cancel their insurance policy if the cancellation date has already passed, unless the producer is changing insurance plans at the same or a higher coverage level.

(c) Producers who are presently ineligible for crop insurance coverage due to a delinquent debt will be allowed to satisfy such debt and obtain coverage during the extended application period specified in paragraph (a)(1) of this section.

(d) The exact percentage for the crop insurance premium discount will be calculated once the total amount of premium for the 1999 crop year (2000 crop year for citrus fruit, avocados in California, and macadamia nuts in Hawaii) at the limited and additional coverage levels has been established.

(e) An additional crop insurance premium discount may be made available for any crops insured for the 1999 crop year by producers who have suffered multiple losses due to scab and/or vomitoxin damage as provided below; this discount is in addition to the premium discount referenced in paragraph (a) of this section and in order to qualify for this discount, a producer must:

(1) Have insured wheat, barley, oats, or rye in at least two crop years during the 1994 through 1998 crop years (A producer must provide evidence of such insurance if the insurance provider has no such record; and

(2) Provide evidence that wheat, barley, oats, or rye produced by the producer was subjected to a discounted price or decrease in yield due to scab or vomitoxin damage in at least two crop years during the 1994 through 1998 crop years.

(f) The two years of insurance specified in paragraph (e)(1) of this section, the two years of discounted prices or yields due to scab and/or vomitoxin specified in paragraph (e)(2) of this section, and the small grain crops affected need not be the same (e.g., a producer could have insured 1995 and 1996 wheat, but had scab and/or vomitoxin damage on 1997 and 1998 barley).

(g) This discount in paragraph (e) of this section can only be applied to the same identical producer that met the qualifications for the discount as required in paragraph (e) of this section.

(h) The total premium discounts allowed under this section to any person cannot exceed $80,000. The $2.5 million gross revenue limitation does not apply to the premium discounts specified in this section.

§ 1477.108 Requirement to purchase crop insurance.

(a) As required in 1102(g)(3) of the Act, any producer who receives crop loss assistance under this part who did not purchase crop insurance for all insurable crops for the 1998 crop year (1999 crop year for citrus fruit, Avocados in California, and Macadamia Nuts in Hawaii) must purchase crop insurance for the 1999 and 2000 crop years (2000 and 2001 crop years for citrus fruit, avocados in California, and macadamia nuts in Hawaii) for all crops of economic significance produced by such producer for which insurance is available.

(b) Any producer who is required to purchase crop insurance in accordance with paragraph (a) of this section who does not purchase either limited or additional coverage by the sales closing date for the applicable crop or the extended application dates specified in section 1477.107(a)(1), may purchase catastrophic risk protection until April 28, 1999. Such producers will have until the following dates to provide their acreage and production reports:

(1) For policies under which the crop was planted on or before December 31, 1998, or the crop is a perennial crop, the producer must submit the acreage and production reports at the time of the Catastrophic Risk Protection application; or

(2) For spring crops, the acreage and production reports must be submitted by the later of May 29, 1999, or the latest spring acreage reporting date specified in the crop insurance policy.

(c) Nothing in this section supersedes the provisions contained in 7 CFR part 400, subpart T, relating to the availability of Catastrophic Risk Protection coverage whenever a producer is unable to plant the intended crop or it is not practical to replant a failed crop before the final planting date, and the producer plants a substitute crop.

(d) If any producer fails to purchase crop insurance as required in paragraph (a) of this section, the producer will be required to pay liquidated damages in an amount and within a reasonable period of time as determined by the Deputy Administrator.

§ 1477.109 Miscellaneous provisions.

(a) Disaster benefits under this part may be withheld in accordance with § 1403.8 of this chapter.

(b) No interest will be paid or accrue on disaster benefits under this part which are delayed or are otherwise not timely issued unless otherwise mandated by law.

(c) A person shall be ineligible to receive disaster assistance under this part if it is determined by the State or county committee or an official of FSA that such person has:

(1) Adopted any scheme or other device which tends to defeat the purpose of a program operated under this part;

(2) Made any fraudulent representation with respect to such program; or

(3) Misrepresented any fact affecting a program determination.

(d) In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all payments made in regard to such matter shall be refunded to CCC, together with interest as determined in accordance with paragraph (e) of this section and late-payment charges as provided for in part 1403 of this chapter.

(e) Producers shall be required to pay interest on any refund required of the producer receiving assistance or a payment if CCC determines that payments or other assistance were provided to the producer and the producer was not eligible for such assistance. The interest rate shall be one percent greater than the rate of interest which the United States Treasury charges CCC for funds, as of the date of payment. Interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date repayment is completed. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any error by the producer.

(f) All persons with a financial interest in the operation receiving benefits under this part shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under this part.

(g) In the event that any request for assistance or payment under this part was established as result of erroneous information or a miscalculation, the assistance or payment shall be recomputed and any excess refunded with applicable interest.

(h) The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

(i) Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the

regulations set forth at parts 11 and 780 of this title.

(j) Any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien again the crop, or proceeds thereof.

(k) Disaster benefits under this part will be made without taking any applicable offsets. The regulations governing offsets found at part 792 of this title and 1403 of this chapter shall not apply to payments made under this part.

(l) Payments which are earned under this part may be assigned in accordance with the provisions of part 1404 of this chapter upon filling out the applicable assignment form.

§ 1477.10 Matters of general applicability.

(a) For calculations of loss made with respect to insured crops, the producer's existing unit structure will be used as the basis for the calculation and may include optional units established according to 7 CFR Part 457 of this Title. For uninsured and noninsurable crops, basic units will be established for these purposes.

(b) Loss payment rates and factors shall be established by the state committee based on procedures provided by the Deputy Administrator.

(c) County average yield for loss calculations will be the simple average of the 1993 through 1997 official county yields established by FSA.

(d) County committees will assign production when the county committee determines:

(1) An acceptable appraisal or record of harvested production does not exist;

(2) The loss is due to an ineligible cause of loss or practices that cause lower yields than those upon which the historic yield is based;

(3) The producer has a contract providing a guaranteed payment for all or a portion of the crop;

(4) The crop is planted beyond the normal planting period for the crop; or

(5) Other cause, as determined by the Deputy Administrator, exists for such case.

(e) The county committee shall establish a maximum loss level based on other losses in the county for the same crop. The maximum loss level for the county shall be expressed as either a percent of loss or yield per acre. The maximum loss level will apply when:

(1) Unharvested acreage has not been appraised by FSA, RMA, FCIC, a company reinsured by FCIC, or other appraiser;

(2) The crop's loss is because of an ineligible disaster condition or circumstances other than a natural disaster; or

(3) Acceptable production records for harvested acres are not available from any source.

(f) Assigned production for practices that result in lower yields than those for which the historic yield is based shall be established by:

(1) Determining the acres planted to the low-yielding type of practice;

(2) Multiplying the State office determined yield reduction factor times the county average yield; and

(3) Multiplying the result of paragraph (f)(2) of this section times the acres in paragraph (f)(1) of this section.

(g) Assigned production for crops planted beyond the normal planting period for the crop shall be calculated according to the lateness of planting the crop. If the crop is planted after the final planting date by:

(1) 1 through 10 calendar days, the assigned production will be based on one percent of the payment yield for each day involved.

(2) 11 through 24 calendar days, the assigned production will be based on 10 percent of the payment yield plus an additional two percent reduction of the payment yield for each days of days 11 through 24 which are involved.

(3) 25 or more calendar days or a date in which the crop would not reasonably be expected to mature by harvest, the assigned production will be based on 50 percent of the payment yield or such greater amount determined by the county committee to be appropriate.

(h) Assigned production for producers with contracts to receive a guaranteed payment for production of an eligible crop will be established by the county committee by:

(1) Determining the total amount of guaranteed payment for the unit;

(2) Converting the guaranteed payment to guaranteed production by dividing the total amount of guaranteed payment by the approved county price for the crop or variety or such other factor deemed appropriate if otherwise the production would appear to be too high; and

(3) Establishing the production for the unit as the greater of the actual net production for the unit or the guaranteed payment.

Subpart B—1998 Single-Year Crop Loss Disaster Assistance Program

§ 1477.201 Single-year crop losses.

(a) To receive disaster benefits under this subpart which covers single-year 1998 crop losses, the county committee must determine that because of a disaster, the producer with respect to the 1998 crop year:

(1) Was prevented from planting a crop;

(2) Sustained a loss in excess of 35 percent of the expected production of a crop;

(3) Sustained a loss in excess of 35 percent of the value for value loss crops; or

(4) Sustained damage in excess of 20 percent of an individual stand of eligible trees, after adjustments for normal mortality.

(b) Calculation of benefits under this subpart shall not include losses:

(1) That are the result of poor management decisions or poor farming practices as determined by the county committee on a case-by-case basis based on instructions issued by the Deputy Administrator;

(2) That are the result of the failure of the producer to reseed or replant to the same crop in the county where it is customary to reseed or replant after a loss;

(3) That are not as a result of a natural disaster;

(4) To crops not intended for harvest in crop year 1998;

(5) To losses of by-products resulting from processing or harvesting a crop, such as cotton seed, peanut shells, wheat or oat straw;

(6) To home gardens; or

(7) As a result of water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected for the containment or release of the water.

(c) Calculation of benefits under this subpart for ornamental nursery stock shall not include losses:

(1) Caused by a failure of power supply or brownouts;

(2) Caused by the inability to market nursery stock as a result of quarantine, boycott, or refusal of a buyer to accept production;

(3) Caused by fire;

(4) Affecting crops where weeds and other forms of undergrowth in the vicinity of the nursery stock have not been controlled; or

(5) Caused by the collapse or failure of buildings or structures.

(d) Calculation of benefits under this subpart for honey where the honey production by colonies or bees was diminished, shall not include losses:

(1) Where the inability to extract was due to the unavailability of equipment; the collapse or failure of equipment or apparatus used in the honey operation;

(2) Resulting from improper storage of honey;

(3) To honey production because of bee feeding;

(4) Caused by the application of chemicals;

(5) Caused by theft, fire, or vandalism;

(6) Caused by the movement of bees by the producer or any other person; or

(7) Due to disease or pest infestation of the colonies.

§ 1477.202 Calculating rates and yields.

(a) Payment rates for 1998 single-year crop losses shall be:

(1) 65 percent of the maximum established RMA price for insured crops;

(2) 65 percent of the State average price for noninsurable crops;

(3) 60 percent of the maximum established RMA price for uninsured crops; and

(4) 65 percent of the established practice rate for damage to eligible trees.

(b) Disaster benefits under this subpart for losses to crops other than trees shall be made in an amount determined by multiplying the loss of production in excess of 35 percent of the expected production by the applicable payment rate established according to paragraph (a) of this section.

(c) Disaster benefits under this subpart for losses of trees shall be made in an amount determined by multiplying the quantity of acres or number of trees in a practice approved by the county committee according to instructions issued by the Deputy Administrator, by the payment rate established according to paragraph (a) of this section.

(d) Separate payment rates and yields for the same crop may be established according to instructions issued by the Deputy Administrator, when there is supporting data from NASS or other sources approved by CCC that show there is a significant difference in yield or value based on a distinct and separate end use of the crop. In spite of differences in yield or values, separate rates or yields shall not be established for crops with different cultural practices, such as organically or hydroponically grown.

(e) Each eligible producer's share of a disaster payment shall be based on the producer's share of the crop or crop proceeds, or, if no crop was produced, the share the producer would have received if the crop had been produced. In cases where crop insurance provides for a landlord/tenant to insure the tenant/landlord's share according to part 457 of this title, disaster payments will be issued on the same basis.

(f) When calculating a payment for a unit loss:

(1) The unharvested payment factor shall be applied to crop acreage planted but not harvested; and

(2) The prevented planting factor shall be applied to any prevented planted acreage eligible for payment.

(g) Production from all end uses of a multi-use crop or all secondary uses for multiple market crops will be calculated separately and summarized together.

§ 1477.203 Production losses, producer responsibility.

(a) Where available, RMA loss records will be used for insured crops.

(b) If RMA loss records are not available, producers are responsible for:

(1) Retaining or providing, when required, the best verifiable or reliable production records available for the crop;

(2) Summarizing all the production evidence;

(3) Accounting for the total amount of unit production for the crop, whether or not records reflect this production; and

(4) Providing the information in a manner that can be easily understood by the county committee.

(c) In determining production under this section the producer must supply acceptable production records to substantiate production to the county committee. If the eligible crop was sold or otherwise disposed of through commercial channels, acceptable production records include: commercial receipts; settlement sheets; warehouse ledger sheets; or load summaries; appraisal information from a loss adjuster acceptable to CCC. If the eligible crop was farm-stored, sold, fed to livestock, or disposed of in means other than commercial channels, acceptable production records include: truck scale tickets; appraisal information from a loss adjuster acceptable to CCC; contemporaneous diaries; or other documentary evidence, such as contemporaneous measurements.

(d) Producers must provide all records for any production of a crop which is grown with an arrangement, agreement, or contract for guaranteed payment. The failure to report the existence of any guaranteed contract or similar arrangement or agreement shall be considered as providing false information to CCC.

§ 1477.204 Determination of production.

(a) Production under this subpart shall include all harvested production, unharvested appraised production and assigned production for the total planted acreage of the crop on the unit.

(b) The harvested production of eligible crop acreage harvested more than once in a crop year shall include the total harvested production from all these harvests.

(c) If a crop is appraised and subsequently harvested, the actual harvested production shall be used to determine benefits.

(d) For all crops eligible for loan deficiency payments or marketing assistance loans with an intended use of grain but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped, production will be adjusted based on a whole grain equivalent according to instructions issued by the Deputy Administrator.

(e) For crops with an established yield and market price for multiple intended uses, a value will be calculated for each use.

(f) For crops sold in a market that is not a recognized market for the crop with no established county average yield and market price, 60 percent, if insured or noninsurable, or 65 percent, if uninsured, of the salvage value received will be deducted from the disaster payment.

(g) If a producer has an arrangement, agreement, or contract for guaranteed payment for production (as opposed to production based on delivery), the production to count shall be the greater of the actual production or the guaranteed payment converted to production according to instructions issued by the Deputy Administrator.

(h) Production that is commingled between units before it was a matter of record and cannot be separated by using records or other means acceptable to CCC shall be prorated to each respective unit according to instructions issued by the Deputy Administrator. Commingled production may be attributed to the applicable unit, if the producer made the unit production of a commodity a matter of record before commingling and does any of the following, as applicable:

(1) Provides copies of verifiable documents showing that production of the commodity was purchased, acquired, or otherwise obtained from beyond the unit;

(2) Had the production measured in a manner acceptable to the county committee; or

(3) Had the current year's production appraised in a manner acceptable to the county committee.

(i) The county committee shall assign production for the unit when the county committee determines that:

(1) The producer has failed to provide adequate and acceptable production records;

(2) The loss to the crop is because of a disaster condition not covered by this subpart, or circumstances other than natural disaster, and there has not otherwise been an accounting of this ineligible cause of loss;

(3) The producer carries out a practice, such as double cropping, that

generally results in lower yields than the established historic yields;

(4) The producer has a contract to receive a guaranteed payment for all or a portion of the crop; or

(5) A crop is late-planted.

(j) For sugarcane, the quantity of sugar produced from such crop shall exclude acreage harvested for seed.

(k) For peanuts, the actual production shall be all peanuts harvested for nuts regardless of their disposition or use as adjusted for low quality.

(l) For tobacco, except flue-cured and burley, the actual production shall be the sum of the tobacco: marketed or available to be marketed; destroyed after harvest; and produced but unharvested, as determined by an appraisal. For flue-cured and burley tobacco, the actual production shall be the sum of the tobacco: marketed, regardless of whether the tobacco was produced in the current crop year or a prior crop year; on hand; destroyed after harvest; and produced but unharvested, as determined by an appraisal.

§ 1477.205 Calculation of acreage for crop losses other than prevented planted.

(a) Subject to paragraph (b) of this section, the acreage of a crop planted in each planting period shall be considered a different crop for the purpose of determining disaster benefits under this subpart.

(b) In cases where there is a repeat crop, double crop or a multiple planting, each of these crops may be considered different crops if the county committee determines that:

(1) Both the initial and subsequent planted crops were planted with an intent to harvest;

(2) The subsequent crop was planted after the time when the initial crop would normally have been harvested;

(3) Both the initial and subsequent planted crops were planted within the normal planting period for that crop; and

(4) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices.

(c) In cases where an initial crop is planted and fails due to an eligible disaster condition and it is generally considered too late to replant and a subsequent crop is planted on the same acreage within its normal planting period in the same crop year and also failed because of an eligible disaster condition, both crops are eligible for disaster assistance if they meet all other eligibility provisions of this part.

§ 1477.206 Calculation of prevented planted acreage.

(a) When determining losses under this subpart, prevented-planted acreage will be considered separately from planted acreage of the same crop.

(b) Except as provided in paragraph (c) of this section, for insured crops, disaster payments under this subpart for prevented-planted acreage shall not be made unless RMA documentation indicates that the eligible producer received a prevented planting payment under the RMA-administered program.

(c) For insured crops, disaster payments under this subpart for prevented-planted acreage will be made available for the following crops for which prevented planting coverage was not available and for which the county committee will make an eligibility determination according to paragraph (d) of this section: California safflowers; peanuts; peppers; popcorn; Central/Southern potatoes; sweet corn (fresh market); tomatoes (fresh market); tomatoes (processing).

(d) For uninsured or noninsurable crops, or the insured crops listed in paragraph (c) of this section, the producer must prove, to the satisfaction of the county committee, an intent to plant the crop and that such crop could not be planted because of an eligible disaster. The county committee must be able to determine the producer was prevented from planting the crop by an eligible disaster that both:

(1) Prevented most producers from planting on acreage with similar characteristics in the surrounding area; and

(2) Unless otherwise allowed by the Deputy Administrator, began no earlier than the planting season for the 1998 crop.

(e) Prevented planted disaster benefits under this subpart shall not apply to:

(1) Aquaculture, including ornamental fish; perennial forage crops grown for hay, seed, or grazing; ginseng root and ginseng seed; honey; maple sap; millet; nursery crops; sweet potatoes; tobacco; trees; turfgrass sod; and tree and vine crops;

(2) Any acreage which is double-cropped, even if the producer has a history of double-cropping acreage;

(3) Uninsured crop acreage that is unclassified for insurance purposes;

(4) Acreage that is used for conservation purposes or intended to be left unplanted under any USDA program;

(5) The same acreage from which any benefit is derived under any program administered by the USDA on which a crop is planted and fails during the crop year except as provided in 1477.106(f) of this part;

(6) Any acreage on which a crop other than a cover crop was harvested, hayed, or grazed during the crop year;

(7) Any acreage for which a cash lease payment is received for the use of the acreage the same crop year unless the county committee determines the lease was for haying and grazing rights only and was not a lease for use of the land;

(8) Acreage for which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(9) Acreage for which the producer or any other person received a prevented planted payment for any crop for the same acreage, excluding share arrangements; and

(10) Acreage for which the producer cannot provide proof to the county committee that inputs such as seed, chemicals, and fertilizer were available to plant and produce a crop with the expectation of at least producing a normal yield.

(f) Disaster benefits under this subpart shall not apply to acreage where the prevented-planted acreage was affected by a disaster that was caused by drought or the failure of the irrigation water supply unless the acreage is in an area classified by the Palmer Drought Severity Index as in a severe or extreme drought during the time period specified by the producer.

(g) For uninsured or noninsurable crops and the insured crops listed in paragraph (c) of this section, for prevented planting purposes:

(1) The maximum prevented-planted acreage for all crops:

(i) Cannot exceed the number of acres of cropland in the unit for the crop year; and

(ii) Will be reduced by the number of acres planted in the unit;

(2) The maximum prevented planted acreage for a crop cannot exceed the number of acres planted by the producer, or which was prevented from planting, to the crop in any 1 of the 1994 through 1997 crop years as determined by the county committee;

(3) For crops grown under a contract specifying the number of acres contracted, the prevented-planted acreage is limited to the result of the number of acres specified in the contract minus planted acreage;

(4) For each crop type or variety for which separate prices or yields are sought for prevented-planted acreage, the producer must provide evidence that the claimed prevented-planted acres were successfully planted in at least 1 of the most recent 4 crop years; and

(5) The prevented planted acreage must be one contiguous block consisting of at least 20 acres or 20 percent of the intended planted acreage in the unit, whichever is less.

§ 1477.207 Quality adjustments to production.

(a) Subject to paragraph (b) of this section, the quantity of production of crops that were damaged due to disaster resulting in diminished quality, shall be adjusted by the county committee in accordance with instructions issued by the Deputy Administrator.

(b) Crops eligible for quality adjustments to production are limited to:

(1) Barley; canola; corn; cotton; flaxseed; grain sorghum; mustard seed; oats; peanuts; rapeseed; rice; safflower; soybeans; sugar beets; sunflower-oil; sunflower-seed; tobacco; wheat; and

(2) Crops with multiple market uses such as fresh, processed or juice, as supported by NASS data or other data determined acceptable in accordance with instructions issued by the Deputy Administrator. RMA loss production figures will not be used to conduct this quality adjustment unless the Deputy Administrator determines otherwise.

(c) The producer must submit documentation for determining the grade and other discount factors that were applied to the crop.

(d) Quality adjustments will be applied after production has been adjusted to standard moisture, when applicable.

(e) Except for cotton, if a quality adjustment has been made for multi-peril crop insurance purposes, an additional adjustment will not be made.

(f) Quality adjustments for crops, other than cotton, peanuts, sugar beets and tobacco, listed in paragraph (b)(1) of this section may be made by applying an adjustment factor based on dividing the Federal marketing assistance loan rate applicable to the crop and producer determined according to part 1421 of this chapter by the unadjusted county marketing assistance loan rate for the crop. For crops that grade sample and are marketed through normal channels, production will be adjusted according to instructions issued by the Deputy Administrator. County committees may, with state committee concurrence, establish county average quality adjustment factors according to procedures issued by the Deputy Administrator.

(g) Quality adjustments for cotton shall be based on the difference between:

(1) The loan rate applicable to the crop and producer determined according to part 1427 of this chapter; and

(2) The adjusted county loan rate. The adjusted county rate is the county loan rate adjusted for the 4-year county average historical quality premium or discount, in accordance with instructions issued by the Deputy Administrator.

(h) Quality adjustments for quota peanuts shall for unused quota be based on the difference between the adjusted sales price and the quota price. The adjusted sales price is the quota price minus discounts for quality, regardless of the actual sales price received. Adjustments for other peanuts may be made as determined appropriate by the Deputy Administrator.

(i) Quality adjustments for sugar beets shall be based on sugar content. The 1998 actual production for the producer shall be adjusted upward or downward to account for sugar content according to instructions issued by the Deputy Administrator.

(j) Quality adjustments for tobacco shall be based on the difference between the sales price and the support price.

(k) Quality adjustments for crops with multiple market uses such as fresh, processed and juice, shall be applied based on the difference between the producer's historical marketing percentage of each market use compared to the actual percentage for 1998, as determined in accordance with instructions issued by the Deputy Administrator.

(l) Quality adjustments for aflatoxin shall be based on the aflatoxin level. The producer must provide the County Office with proof a price reduction because of aflatoxin. The aflatoxin level must be 20 parts per billion or more before a quality adjustment will be made. The quality adjustment factor applied to affected production is .50 if the production is marketable. If the production is unmarketable due to aflatoxin levels of at least 20 parts per billion, production will be adjusted to zero. Any value received will be considered salvage.

(m) Any quantity of the crop determined to be salvage will not be considered production. Salvage values shall be factored by .60 for insured and noninsurable commodities and .65 for uninsured commodities.

(n) Quality adjustments do not apply to value loss crops.

(o) Quality adjustments shall not apply to: hay, honey, maple sap, turfgrass sod, crops marketed for a use other than an intended use for which there is not an established county price or yield.

§ 1477.208 1999 Crop Losses.

(a) Producers have the option to receive benefits on 1999 crop rather than 1998 loss when both the following apply:

(1) The 1999 crop was affected by disaster-related conditions that occurred in calendar year 1998; and

(2) Harvest for the 1999 crop would normally begin in calendar year 1998.

(b) Producers may elect to use the 1999 crop for 1998 single-year CLDAP benefits only.

§ 1477.209 Value loss crops.

(a) Special provisions to assess losses and calculate disaster assistance under this subpart apply to the following crops and such other crops as may be identified in instructions issued by the Deputy Administrator: ornamental nursery; Christmas trees; ginseng root; and aquaculture, including ornamental fish.

(b) Disaster benefits under this subpart are calculated based on the loss of value at the time of disaster, as provided by instructions issued by the Deputy Administrator.

(c) For aquaculture, disaster benefits under this subpart for aquacultural species are limited to those aquacultural species which were placed in the aquacultural facility by the producer. Disaster benefits under this subpart shall not be made available for aquacultural species that are growing naturally in the aquaculture facility. Disaster benefits under this subpart are limited to aquacultural species that were planted or seeded on property owned or leased by the producer where that land has readily identifiable boundaries, and over which the producer has total control of the waterbed and the ground under the waterbed. Producers who only have control over a column of water will not be eligible for disaster benefits under this subpart.

(d) For ornamental nursery crops, disaster benefits under this subpart are limited to ornamental nursery crops that were grown in a container or controlled environment for commercial sale on property owned or leased by the producer, and cared for and managed using good nursery growing practices. Indigenous crops are not eligible for benefits under this subpart.

(e) For Christmas trees, disaster benefits under this subpart are limited to losses which exceed 35 percent of the value of the Christmas trees present at the time of the disaster. Christmas tree producers seeking disaster assistance under this subpart must provide acreage data, dates of plantings and the quantity of trees planted on each date.

§ 1477.210 Other specialty crops.

(a) Other special provisions to assess losses and calculate disaster assistance under this subpart apply to the following crops and such other crops as may be identified in instructions issued by the Deputy Administrator: turfgrass sod, honey and maple sap.

(b) For turfgrass sod, disaster benefits under this subpart are limited to turfgrass sod which would have matured and been harvested during 1998, when a disaster caused in excess of 35 percent of the expected production to die.

(c) For honey, disaster benefits under this subpart are limited to table and nontable honey produced commercially for human consumption. For calculating benefits, all honey is considered a single crop, regardless of type or variety of floral source or intended use.

(d) For maple sap, disaster benefits under this subpart are limited to maple sap produced on private property in a controlled environment by a commercial operator for sale as sap or syrup. The maple sap must be produced from trees that are: located on land the producer controls by ownership or lease; managed for production of maple sap; and are at least 30 years old and 12 inches in diameter.

Subpart C—Multi-Year Crop Loss Disaster Assistance Program

§ 1477.300 Multi-year crop losses.

(a) The disaster benefits under this subpart, the 1998 Crop Loss Disaster Assistance Program Multi-year Losses, will be equal to 25 percent of the producer's previous loss payments for the qualifying losses if the producer received:

(1) Crop insurance indemnity payments for crop losses on insured crops under the RMA-administered program, excluding replanting or raisin reconditioning payments; or

(2) Payments from the Non-insured Crop Disaster Assistance Program for multi-year crop losses, including any 1994 ad hoc disaster payment of a noninsurable crop.

(b) In order to receive benefits under this subpart, the producer must have received (a)(1) or (a)(2) in at least 3 of the 5 crop years running from 1994 through 1998 and only such losses shall be considered qualifying losses for purposes of paragraph (a) of this section.

(c) For multi-year eligibility based on crop insurance indemnity payments, RMA will determine the producers that meet the eligibility requirements along with indemnity amounts and pass the data to FSA.

(d) For NAP multi-year eligibility, FSA will determine eligible producers. Because the multi-year payments are based on payments previously received, area loss provisions apply.

(e) For purposes of paragraph (a) of this section, the ''Federal loss payments'' shall only be those payments which were received for qualifying losses under the programs identified in paragraphs (a)(1) and (a)(2) of this section. In addition, benefits under this part will be permitted only where the qualifying losses were suffered by the identical producers, as determined under instructions of the Deputy Administrator. Changes in the organization and control of entities or production units will be considered to be changes in producers for crop history purposes. Likewise, in joint ventures, the entity will be considered to be the producer, not the individual members, and representational entities, such as a trust, will be considered different producers than the beneficiaries of the entity, except as otherwise allowed by the Deputy Administrator. The provisions of this subsection shall be used for qualifying purposes only for multi-year benefits and shall not, for qualified recipients, affect other restrictions that limit the maximum payment amount that may be received under this program.

Signed at Washington, DC, on April 9, 1999.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99–9350 Filed 4–12–99; 12:42 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Airspace Docket No. 98–AGL–73]

Modification of Class E Airspace; Port Clinton, OH; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects the legal description of a final rule that was published in the **Federal Register** on Friday, March 26, 1999 (64 FR 14600), Airspace Docket No. 98–AGL–73. The final rule modified Class E Airspace at Port Clinton, OH.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone: (847) 294–7477.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 99–7450, Airspace Docket No. 98–AGL–73, published on March 26, 1999 (64 FR 14600), modified Class E Airspace at Port Clinton, OH. The wrong legal description for the Class E airspace for Port Clinton, OH, was published. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the legal description for the Class E airspace, Port Clinton, OH, as published in the **Federal Register** March 26, 1999 (64 FR 14600), (FR Doc. 99–7450), is corrected as follows:

PART 71—[CORRECTED]

§ 71.1 [Corrected]

On page 146, Column 3, correct the Class E airspace designation for Napoleon, OH, incorporated by reference in § 71.1, to read as follows:

* * * * *

AGL OH E5 Port Clinton, OH [Revised]

Port Clinton, Carl R. Keller Field Airport, OH
(Lat. 41°30′59″ N., long. 82°52′07″ W)

Magruder Memorial Hospital, OH

Point in Space Coordinates
(Lat. 41°29′43″ N., long. 82°55′50″ W)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of Carl R. Keller Field Airport, and within a 6.0-mile radius of the Point in Space serving Magruder Memorial Hospital.

* * * * *

Issued in Des Plaines, IL on March 21, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division,.

[FR Doc. 99–9301 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 29528; Amdt. No. 415]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the

required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT:

Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Program Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on April 9, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC,

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

PART 95—[AMENDED]

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 415; Effective Date May 20, 1999]

From	To	MEA
§ 95.6001 Victor Routes—U.S.		
§ 95.6016 VOR Federal Airway 16 is amended to Read in Part		
Cedar Creek, TX VORTAC	Quitman, TX VOR/DME	2500
§ 95.6018 VOR Federal Airway 18 is amended to Read in Part		
Cedar Creek, TX VORTAC	Quitman, TX VOR/DME	2500
§ 95.6038 VOR Federal Airway 38 is amended to Read in Part		
Cerol, VA FIX	*Miter, VA FIX	6000
*6000—MRA		
Miter, VA FIX	Gordonsville, VA VORTAC	6000
§ 95.6054 VOR Federal Airway 54 is amended to Read in Part		
Cedar Creek, TX VORTAC	Quitman, TX VOR/DME	2500
Caney, AR FIX	Malve, AR FIX	*3500
*1900–MOCA		
§ 95.6099 VOR Federal Airway 99 is amended to Read in Part		
La Guardia, NY VOR/DME	Outte, CT FIX	*4000
*1600—MOCA		
Outte, CT FIX	Sorry, CT FIX	*10000

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 415; Effective Date May 20, 1999]

From	To	MEA
*2000—MOCA		
Sorry, CT FIX	Hartford, CT VOR/DME	3000
§ 95.6159 VOR Federal Airway 159 is amended to Read in Part		
Tuskegee, AL VOR/DME	Kentt, AL FIX	*2600
*1800—MOCA		
Kentt, AL FIX	Kylee, AL FIX	3800
§ 95.6184 VOR Federal Airway 184 is amended to Read in Part		
Atlantic City, NJ VORTAC	Panze, NJ FIX	*2000
*1500–MOCA		
Panze, NJ FIX	Falon, NJ FIX	*4500
*1500–MOCA		
Falon, NJ FIX	Ziggi, NJ FIX	*2500
*1500–MOCA		
§ 95.6272 VOR Federal Airway 272 is amended to Read in Part		
Brisc, TX FIX	Sayre, OK VORTAC	4700
§ 95.6319 VOR Federal Airway 319 is amended to Read in Part		
Weeke, AK FIX	Bethel, AK VORTAC	.....
	E BND	*6000
	W BND	*2000
*2000–MOCA		
§ 95.6440 VOR Federal Airway 440 is amended to Read in Part		
McGrath, AK VORTAC	Ganes, AK FIX	.....
	E BND	*6000
	W BND	*8000
*5600–MOCA		
§ 95.6509 VOR Federal Airway 509 is amended to Read in Part		
Crowd, FL FIX	Hallr, FL FIX	*6000
*1800–MOCA		
§ 95.6521 VOR Federal Airway 521 is amended to Read in Part		
Lee County, FL VORTAC	Quncy, FL FIX	2500
§ 95.6550 VOR Federal Airway 550 is amended to Read in Part		
San Antonio, TX VORTAC	*Pinch, TX FIX	3300
*3300—MRA		
Pinch, TX FIX	Centex, TX VORTAC	3000

§ 95.7001 JET ROUTES

From is Amended to Read in Part	To	MEA	MAA
§ 95.7042 Jet Route No. 42			
Montebello, VA VOR/DME	Gordonsville, VA VORTAC	18000	41000
Gordonsville, VA VORTAC	Nottingham, MD VORTAC	18000	45000
Nottingham, MD VORTAC	Graco, MD FIX	18000	35000
Graco, MD FIX	Woodstown, NJ VORTAC	18000	45000
Woodstown, NJ VORTAC	Robbinsville, NJ VORTAC	18000	45000
Robbinsville, NJ VORTAC	Hartford, CT VOR/DME	18000	45000
§ 95.7150 Jet Route No. 150 is Amended to Read in part			
Nottingham, MD VORTAC	Graco, MD FIX	18000	35000
Graco, MD FIX	Woodstown, NJ VORTAC	18000	45000

§ 95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

Airway Segment		Changeover Points	
From	To	Distance	From
IV–184 is Amended to Delete Changeover Point			
Cedar Lake, NJ VORTAC	Atlantic City, NJ VORTAC	10	Cedar Lake
V–319 is Amended to Add Changeover Point			
Sparrevohn, AK VOR/DME	Bethel, AK VORTAC	92	Sparrevohn
V–440 is Amended to Add Changeover Point			
Unalakleet, AK VORTAC	Nome, AK VORTAC	80	Unalakleet

[FR Doc. 99–9303 Filed 4–14–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–40]

19 CFR Part 122

Withdrawal of International Airport Designation of Akron Fulton Airport

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations pertaining to the field organization of the Customs Service by withdrawing the international airport designation of Akron Municipal Airport (now functioning as Akron Fulton Airport) and by designating Akron Fulton Airport as a landing rights airport instead. The change is made as part of Customs continuing program to obtain more efficient use of its personnel, facilities and resources, and to provide better service to carriers, importers and the general public.

EFFECTIVE DATE: May 17, 1999.

FOR FURTHER INFORMATION CONTACT: Betsy Passuth, Office of Field Operations, 202–927–0795.

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities and resources and to provide better service to carriers, importers and the general public, Customs proposed to withdraw the international airport designation of Akron Municipal Airport (now functioning as Akron Fulton Airport) and to designate Akron Fulton Airport as a landing rights airport instead. A Notice of Proposed Rulemaking to this effect was published in the **Federal Register** (63 FR 11383) on March 9, 1998. The designation as an international airport was proposed to be withdrawn because of lack of sufficient international travel through the airport and because of failure of the airport operator to maintain an adequate facility.

Determination

No comments either supporting or opposing the proposal were received. After further consideration of the proposal, Customs has determined to proceed with withdrawing the international airport designation of Akron Fulton Airport and to designate the airport as a landing rights airport instead. The Customs inspectors stationed adjacent to the Akron-Canton Regional Airport will be able to provide Customs services to international aircraft at the Akron Fulton Airport on an as-needed basis.

Regulatory Flexibility Act and Executive Order 12866

Customs establishes, expands, consolidates and makes other changes to Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although a notice on this subject matter requesting public comment was issued, the subject matter is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this final rule is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Agency organization matters such as this are exempt from Executive Order 12866.

Drafting Information. The principal author of this document was Janet L. Johnson, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 122

Air carriers, Aircraft, Airports, Air transportation, Customs duties and inspection, Freight, Imports, Organization and functions (Government agencies).

Amendment to the Regulations

Accordingly, Part 122 of the Customs Regulations is amended as set forth below.

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

§ 122.13 [Amended]

2. The list of international airports in § 122.13 is amended by removing the entry ''Akron, Ohio—Akron Municipal Airport''.

Raymond W. Kelly,

Commissioner of Customs.

Approved: March 12, 1999.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 99–9345 Filed 4–14–99; 8:45 am]
BILLING CODE 4820–02–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations No. 4 and 16]

RIN 0960–AE98

Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Substantial Gainful Activity Amounts

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising the rules for determining when earnings demonstrate the ability to engage in substantial gainful activity (SGA). This rule change applies to Social Security disability benefits provided under title II of the Social Security Act (the Act) and Supplemental Security Income (SSI) benefits based on disability under title XVI of the Act. (Eligibility for benefits under titles II and XVI also confers eligibility for related Medicare and Medicaid benefits under titles XVIII and XIX of the Act.) Specifically, we are raising from $500 to $700 the average monthly earnings guidelines used to determine whether work done by persons with impairments other than blindness is SGA. We are raising this level as part of efforts to encourage individuals with disabilities to attempt to work, and to provide an updated indicator of when earnings demonstrate the ability to engage in SGA. This increase reflects our assessment of the amount that roughly corresponds to wage growth since the last increase in 1990.

EFFECTIVE DATE: These rules are effective July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Jack Baumel, Office of Employment Support Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–9834 or TTY (410) 966–6210. For information about eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet web site, SSA Online, www.ssa.gov.

SUPPLEMENTARY INFORMATION:

Background

Under 20 CFR 404.1572 and 416.972, the term ''substantial gainful activity'' means work activity that involves significant physical or mental effort and that is done for pay or profit. Work activity is gainful if it is the kind of work usually performed for pay or profit, whether or not a profit is realized. Sections 223(d)(4)(A) and 1614(a)(3)(E) of the Act require the Commissioner to prescribe by regulations the criteria for determining when earnings demonstrate ability to engage in SGA for a person with an impairment other than blindness.

The amount of average monthly earnings that ordinarily demonstrates SGA for people with an impairment other than blindness has not been increased since January 1, 1990. We are revising this level now after reassessing the current guidelines as part of our effort to improve incentives to encourage individuals with disabilities to attempt to work. We believe that the increase in the amount of earnings that constitutes SGA provides an updated indicator of when earnings demonstrate the ability to engage in SGA and is a significant improvement to the existing work incentive provisions.

Proposed Rules

We published a notice of proposed rulemaking (NPRM) in the **Federal Register** on February 16, 1999 (64 FR 7559). In the NPRM, we proposed rules to increase the amount in the monthly earnings guidelines used in determining whether the work activities of a person with an impairment other than blindness demonstrate that he or she is able to perform SGA. These guidelines in §§ 404.1574 and 416.974 deal with persons claiming title II or title XVI benefits or receiving title II benefits based on disability. Under our prior rules, if such a person had earnings from work activities as an employee (including as an employee of a sheltered workshop or comparable facility) that averaged more than $500 a month, we would ordinarily consider that the person had engaged in SGA. Under these new rules, the $500 amount is raised to $700 per month.

While these rules make specific increases to the amount of earnings that will ordinarily show that a person has engaged in SGA, we will, at a future point, consider making other changes in the work incentive rules. Therefore, the NPRM invited the public to provide us with general suggestions for changes which might be desirable in related provisions (such as the trial work period services amount, and the earnings level that ordinarily demonstrates that an individual has not engaged in SGA) and the SGA guidelines in the future. We will consider those general suggestions not addressed below regarding possible future changes.

Public Comments

We received over 3000 sets of comments in response to the proposal. Commenters included many advocates for people with disabilities, State and local government entities, attorneys, employees from one SSA field office, one Administrative Law Judge, one member of Congress, and a large number of private citizens. With few exceptions, the comments we received were substantive assessments of the proposal and/or related suggestions. We have summarized these substantive comments, grouped them by subject, and discuss them below.

Comment: All but five of the comments received expressing an opinion about the proposed increase in the SGA guidelines were in favor. One was opposed and four expressed doubt that the increase in the SGA guidelines would achieve improvement. Many of the commenters in favor also believed that we should make further changes.

Response: We appreciate that all but a few commenters agreed with our assessment that an increase in the SGA guidelines is warranted. We have addressed the additional comments below.

Comment: Many of the comments expressing support for an increase also stated the general opinion that the proposed increase to $700 was not enough. Several commenters suggested that geographic differences in the cost-of-living or poverty level be taken into account in setting the SGA amount. Many expressed the view that the $700 amount is below the amount SGA would have attained had its growth kept pace with increases in average wages since its inception. Many also noted that the new $700 amount is significantly lower than a month's full-time earnings at the minimum wage level. Many also criticized us regarding the nine years lapse since the last increase.

Response: The historical relationship between the SGA amount and average wage growth was roughly consistent between 1961 (when the SGA guideline was first issued by regulation) and 1980. Since 1980, however, the SGA level has been kept constant for two long periods of time during which wages were experiencing growth. By 1989, the actual SGA level for the non-blind lagged behind average wage growth since the amount had stayed at $300 for a decade. In 1990, we raised the SGA amount to $500.

The Act does not spell out the definition of SGA for people with impairments other than blindness and the legislative record neither expresses nor implies a connection with average wages or prices. The Act provides that the Commissioner is to prescribe by regulation the criteria for determining when earnings demonstrate the ability to engage in SGA. We designed the SGA guidelines as a way of measuring an individual's ability to work and not as a measure of an individual's need for income. We decided on the amounts being implemented based on our experience with the disability programs and beneficiaries' work efforts and the need to maintain fiscal responsibility. In any event, the increase we are implementing now approximately corresponds to wage growth since 1990.

Comment: Many comments noted that the SGA amount for people who are blind is $1110 for calendar year 1999. These comments expressed dissatisfaction with the discrepancy and generally considered it unjustified discrimination. Most of these commenters recommended that we increase the SGA amount for people with impairments other than blindness in a similar manner or to the same level as for people who are blind.

Response: Before 1977, Section 223(d) of the Act authorized the Commissioner to prescribe the level of earnings that demonstrate SGA for all title II applicants and recipients and all title XVI applicants. In 1977, Congress amended that section of the Act to provide a different criterion for setting the SGA level for people who are blind (i.e., annual adjustment based on the national average wage index). Congress consciously made this distinction between people who are blind and those with impairments other than blindness. The House and Senate conference report accompanying the Social Security Amendments of 1977 clearly stated that a different SGA amount was being established for blind persons, and that the conferees did not intend that the amount be applied to people with impairments other than blindness.

Comment: Many comments suggested either annual review of the SGA amount or that future increases be linked to increases in a generally recognized economic benchmark, e.g., average wage, cost-of-living, poverty level. They contend that annual review or indexing the SGA level would provide a consistent relationship with wages and/or prices, and prevent erosion of the work component of the definition of disability over time as these factors increase.

Response: As stated in a previous response, we designed the SGA guidelines as a way of measuring an individual's ability to work and not as a measure of an individual's need for income. We decided on the amounts we are implementing based on our experience with the disability programs and beneficiaries' work efforts and the need to maintain fiscal responsibility. The increase we are implementing now approximately corresponds to wage growth since 1990. However, we recognize that increasing program factors on a regular and predictable basis allows us to avoid making adjustments on an ad hoc basis. We may consider, in the future, if the SGA amounts should be indexed.

Comment: Several comments suggested that we stop using SGA to evaluate the work component of disability. They recommended that, in its place, we use an earnings offset formula to reduce cash benefits gradually as earnings rise (similar to the earned income exclusion currently under title XVI). One suggested that there should be no earnings limits placed on eligibility for people with disabilities.

Response: These suggested changes require new legislation and we can not implement them by regulation alone. Several legislative proposals to test the earnings offset approach under title II are pending before the current session of Congress.

Comment: Many commenters suggested that we also increase the monthly earnings amount that we consider being services for purposes of the Trial Work Period (TWP). Many of these also suggested that the TWP and SGA amounts should be the same. Many of these also suggested that we index TWP increases to an economic benchmark. One suggested that we apply the TWP earnings amount on an annual basis rather than monthly.

Response: The TWP is a work incentive. During the TWP, a title II beneficiary may test his or her ability to work and still be considered disabled. We will not consider services performed during the TWP as showing that disability has ended until services have been performed in at least 9 months (not necessarily consecutive). Services means any activity, even though it is not SGA, which is done by a person in employment or self-employment for pay or profit, or is the kind normally done for pay or profit. As established in § 404.1592(b), if you are an employee, we currently consider your work to be services if you earn more than $200 a month. As a result of public comments, we will consider whether, in the future, to propose raising the monthly earnings guideline for services under the trial work period and related changes.

Comment: One commenter recommended raising the average monthly earnings amount that will ordinarily show that an employee did *NOT* engage in SGA (currently, earnings of less than $300).

Response: The effect of this provision is to create a range where monthly earnings are neither high enough nor low enough to show whether an employee engaged in SGA. If an employee's earnings fall into this range, we generally consider other information in addition to the employee's earnings to reach a determination. In practice, this provision affects a relatively small number of people. As a result of public comments, we will consider whether, in the future, to propose raising the amount and/or make other modification(s) to this provision.

Comment: Many comments expressed general support for the recognition of the special medical needs and medical insurance needs of people with disabilities. Several comments expressed support for recognition of the special needs of young people with disabilities who are in transition from education to work. Several comments advocated liberalization of other existing work incentive provisions and included suggestions for changes to these provisions.

Response: The issues addressed by these comments are outside the scope of this specific rules change. However, as we stated in the February 16, 1999 NPRM, we will consider these comments regarding possible future changes.

Comment: A few commenters suggested that a January 1, 1999 effective date for the SGA increase would be easier for us to administer and seem less arbitrary to the public.

Response: This rules change increases the number of people eligible for disability benefits under Old-Age, Survivors and Disability Insurance and the SSI program, as well as for related Medicare and Medicaid benefits. We believe it is in the public interest to proceed quickly with its implementation. However, we believe that an effective date of July 1, 1999 represents the earliest date practicable for these final rules to be effective.

Final Regulations

We are revising §§ 404.1574(b)(2) and (4), and 416.974(b)(2) and (4) to increase from $500 to $700 the earnings guidelines that we use to determine whether a non-blind employee is engaging in SGA. (This standard also applies to the self-employed in certain circumstances by cross-references that have been and continue to be present in §§ 404.1575 and 416.975.) We have not raised the SGA earnings amount for approximately nine years. We are raising the SGA level now to $700, which roughly corresponds to wage growth since the last increase in 1990.

In order to comply with the President's June 1, 1998 memorandum directing the use of plain language for all proposed and final rulemaking, we are rewriting the regulatory paragraphs affected by the above rule changes and the intervening paragraph ((b)(3)) into plain language. We intend this rewrite to have no substantive effect other than those substantive changes described in this preamble to these final rules.

Electronic Version

The electronic file of this document is available on the Internet at *www.access.gpo.gov/nara.* This document is also available on our Internet web site, SSA Online, *www.ssa.gov.*

Regulatory Procedures

Paperwork Reduction Act

These regulations impose no new reporting/record-keeping requirements necessitating clearance by the Office of Management and Budget (OMB).

Executive Order 12866

Regulatory Impact Analysis

Introduction—Based on the costs associated with these final rules, the Social Security Administration has determined that they require an assessment of costs and benefits to society per Executive Order 12866 because they meet the definition of a ''significant regulatory action.'' These final rules also meet the definition of a ''major rule'' under 5 U.S.C. 801ff., and this assessment also fulfills the requirements of those provisions as well. In addition, SSA has determined, as required under the aforementioned statute, that these final rules do not create any unfunded mandates for State or local entities pursuant to sections 202–205 of the Unfunded Mandates Act of 1995. OMB has reviewed these final rules.

Executive Order 12866 includes in its definition of a ''significant regulatory action'' one which generates a major increase in costs for the Federal government. Accordingly, a discussion follows of the effect of the regulations and general information on estimated costs and benefits to society.

Nature of the Program—Benefits to disabled and blind individuals are provided under title II and title XVI of the Act. Disability is defined under both programs as, ''* * * inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment * * *.'' Related medical benefits to disabled and blind individuals are provided under title XVIII and title XIX of the Act.

We use earnings guidelines to evaluate a person's work activity to determine whether the work activity is SGA and therefore whether that person may be considered disabled under the law. While this is only one of the tests used to determine disability, it is a critical threshold in disability evaluation. We evaluate the work activity of persons claiming or receiving disability benefits under title II of the Act and that of persons claiming benefits because of a disability under title XVI of the Act. These new regulations increase the amounts of those earnings guidelines. We have not raised the SGA earnings amount for approximately nine years. We are raising it now to approximate wage growth during that time.

Intended Effect—We expect that the increase in the amount of earnings that constitute SGA will provide a greater incentive for many people with disabilities to attempt to work or, if already working, to continue to work or increase their work effort. Hundreds of thousands of people with disabilities already work and the new revisions will be of advantage to many. For these individuals, as well as those not now working, the new revisions will enhance their potential to participate in the workforce, and, consequently, improve their economic well being by increasing their income through earnings.

In addition, the increase will permit some individuals with disabilities who have earnings in excess of the prior regulatory limit ($500) but less than the amount in these new rules ($700), to receive benefits. We estimate that by Fiscal Year (FY) 2004, an additional 27,000 individuals will receive benefits because of these changes. This estimate is based on analyses of the earnings distributions of a representative sample of disabled individuals.

The following chart provides the estimated increases in Old-age, Survivors and Disability Insurance payments, Federal SSI payments, Medicare benefits, and Federal share of Medicaid benefits due to the increase in the SGA amount to $700 in 1999, for fiscal years 1999–2004. (Amounts are in millions.)

	Fiscal year						Total 1999–2004
	1999	2000	2001	2002	2003	2004	
OASDI	10	30	55	75	100	120	390
SSI	15	20	25	25	30	30	145
Medicare	10	20	30	50	60	80	250
Medicaid	40	60	70	75	90	100	435
Subtotal, all programs	75	130	180	225	280	330	1220

NOTES:
[1] Totals may not equal sum of rounded components.
[2] Above estimates based on the assumptions underlying the President's FY 2000 Budget, including the SSA Office of the Actuary's normal assumption of an SGA amount increasing with average wages.
[3] Estimates for Medicare and Medicaid provided by the Office of the Actuary in the Health Care Financing Administration (HCFA).

In addition, since States share in the costs of financing Medicaid, States will have some costs associated with the increase in the SGA amount as well. These costs are estimated by HCFA to be (in millions):

Medicaid	Fiscal year						Total 1999–2004
	1999	2000	2001	2002	2003	2004	
State Share	30	45	55	55	70	75	330

Although the costs are significant, we consider these changes as necessary improvements to the work incentives. The costs of these regulations will be paid through programmatic and regulatory changes.

Regulatory Flexibility Act

We certify that these regulations do not have a significant economic impact

on a substantial number of small entities because they primarily affect individuals who are applying for or receiving title II, or applying for title XVI, benefits because of disability, and States which administer the Medicaid program.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and record keeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and record keeping requirements, Supplemental Security Income (SSI).

Dated: April 7, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons stated in the preamble, the Social Security Administration is amending parts 404 and 416 of chapter III of title 20 of the Code of Federal Regulations as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205 (a), (b), and (d)–(h), 216(i), 221 (a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405 (a), (b), and (d)–(h), 416(i), 421 (a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Section 404.1574 is amended by revising paragraphs (b)(2), (b)(3), and (b)(4) to read as follows:

§ 404.1574 Evaluation guides if you are an employee.

* * * * *

(b) * * *

(2) *Earnings that will ordinarily show that you have engaged in substantial gainful activity.* We will consider that your earnings from your work activity as an employee show that you have engaged in substantial gainful activity if—

For months	Your monthly earnings averaged more than
In calendar years before 1976	$200
In calendar year 1976	230
In calendar year 1977	240
In calendar year 1978	260
In calendar year 1979	280
In calendar years 1980–1989	300
In January 1990–June 1999	500
After June 1999	700

(3) *Earnings that will ordinarily show that you have not engaged in substantial gainful activity.* We will generally consider that the earnings from your work as an employee will show that you have not engaged in substantial gainful activity if—

For months	Your monthly earnings averaged more than
In calendar years before 1976	$130
In calendar year 1976	150
In calendar year 1977	160
In calendar year 1978	170
In calendar year 1979	180
In calendar years 1980–1989	190
After December 1989	300

(4) *If you work in a sheltered workshop.* If you are working in a sheltered workshop or a comparable facility especially set up for severely impaired persons, your earnings and activities will ordinarily establish that you have not done substantial gainful activity if—

For months	Your average monthly earnings are not greater than
In calendar years before 1976	$200
In calendar year 1976	230
In calendar year 1977	240
In calendar year 1978	260
In calendar year 1979	280
In calendar years 1980–1989	300
In January 1990–June 1999	500
After June 1999	700

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED

1. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c) and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c) and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a) and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

2. Section 416.974 is amended by revising paragraphs (b)(2), (b)(3), and (b)(4) to read as follows:

§ 416.974 Evaluation guides if you are an employee.

* * * * *

(b) * * *

(2) *Earnings that will ordinarily show that you have engaged in substantial gainful activity.* We will consider that your earnings from your work activity as an employee show that you have engaged in substantial gainful activity if—

For months	Your monthly earnings averaged more than
In calendar years before 1976	$200
In calendar year 1976	230
In calendar year 1977	240
In calendar year 1978	260
In calendar year 1979	280
In calendar years 1980—1989	300
In January 1990—June 1999	500
After June 1999	700

(3) *Earnings that will ordinarily show that you have not engaged in substantial gainful activity.* We will generally consider that the earnings from your work as an employee will show that you have not engaged in substantial gainful activity if—

For months	Your monthly earnings averaged less than
In calendar years before 1976	$130
In calendar year 1976	150
In calendar year 1977	160
In calendar year 1978	170
In calendar year 1979	180
In calendar years 1980—1989	190
After December 1989	300

(4) *If you work in a sheltered workshop.* If you are working in a sheltered workshop or a comparable facility especially set up for severely impaired persons, your earnings and activities will ordinarily establish that you have not done substantial gainful activity if—

For months	Your monthly earnings averaged more than
In calendar years before 1976	$200
In calendar year 1976	230
In calendar year 1977	240
In calendar year 1978	260
In calendar year 1979	280
In calendar years 1980–1989	300
In January 1990–June 1999	500
After June 1999	700

* * * * *

[FR Doc. 99–9427 Filed 4–14–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 201, 330, 331, 341, 346, 355, 358, 369, and 701

[Docket Nos. 98N–0337, 96N–0420, 95N–0259, and 90P–0201]

RIN 0910–AA79

Over-The-Counter Human Drugs; Labeling Requirements; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of March 17, 1999 (64 FR 13254). The final rule established a standardized format and standardized content requirements for the labeling of over-the-counter (OTC) drug products. The document was inadvertently published with an incorrect effective date. This document corrects that error.

DATES: Effective April 15, 1999, the effective date of the final rule published on March 17, 1999 (64 FR 13254) is corrected to May 16, 1999.

FOR FURTHER INFORMATION CONTACT: Debra L. Bowen, Food and Drug Administration, Center for Drug Evaluation and Research (HFD–560), 5600 Fishers Lane, Rockville, MD 20852, 301–827–2222, or email ''BOWEND@cder.fda.gov''.

SUPPLEMENTARY INFORMATION: In FR Doc. 99–6296, appearing on page 13254 in the **Federal Register** of Wednesday, March 17, 1999, the following correction is made:

1. On page 13254, in the first column, under the ''**Dates**'' section ''*Effective Date*: April 16, 1999.'' is corrected to read ''*Effective Date*: May 16, 1999.''

Dated: April 12, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–9520 Filed 4–14–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 520

Oral Dosage Form New Animal Drugs; Dichlorvos Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Boehringer Ingelheim Vetmedica, Inc. The supplemental NADA provides for veterinary prescription use of additional dichlorvos tablet sizes for the treatment of certain worm infections in cats and puppies and for the treatment of dogs and kittens.

EFFECTIVE DATE: April 15, 1999.

FOR FURTHER INFORMATION CONTACT: Dennis M. Bensley, Center for Veterinary Medicine (HFV–143), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6956.

SUPPLEMENTARY INFORMATION: Boehringer Ingelheim Vetmedica, Inc., 2621 North Belt Hwy., St. Joseph, MO 64506–2002, is the sponsor of NADA 48–271 that provides for veterinary prescription use of Task® (dichlorvos) tablets for cats and puppies for removal and control of certain intestinal roundworms and hookworms. The firm filed a supplemental NADA that provides for the use of 10- and 20-milligram (mg) dichlorvos tablets, in addition to 2- and 5-mg tablets, in cats and puppies, and for the use of dichlorvos tablets in dogs and kittens. The supplemental NADA is approved as of March 4, 1999, and the regulations are amended by revising 21 CFR 520.600(i) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Also, the list of sponsors of approved applications in 21 CFR 510.600(c) is amended to reflect the sponsor's current zip code.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) in the entry for ''Boehringer Ingelheim Vetmedica, Inc.'' and in the table in paragraph (c)(2) in the entry for ''000010'' by removing ''64502'' and adding in its place ''64506–2002''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

4. Section 520.600 is amended by revising paragraph (i) to read as follows:

§ 520.600 Dichlorvos.

* * * * *

(i) *Conditions of use in dogs, cats, puppies, and kittens.* (1) Each tablet contains 2, 5, 10, or 20 milligrams of dichlorvos.

(2) It is administered orally at 5 milligrams of dichlorvos per pound of body weight.

(3) Dogs and puppies: Removal and control of intestinal roundworms (*Toxocara canis* and *Toxascaris leonina*) and hookworms (*Ancylostoma caninum* and *Uncinaria stenocephala*).

(4) Cats and kittens: Removal and control of intestinal roundworms

(*Toxocara cati* and *Toxascaris leonina*) and hookworms (*Ancylostoma tubaeforme* and *Uncinaria stenocephala*).

(5) Dichlorvos is a cholinesterase inhibitor. Do not use simultaneously with or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(6) Do not use in animals under 10 days of age or 1 pound of body weight.

(7) Do not administer to animals showing signs of constipation, mechanical blockage of the intestinal tract, impaired liver function, or recently exposed to or showing signs of infectious disease.

(8) Do not use in dogs or puppies infected with *Dirofilaria immitis*.

(9) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: April 1, 1999.

Andrew J. Beaulieu,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–9459 Filed 4–14–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Sulfadimethoxine Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for use of sulfadimethoxine (SDM) soluble powder to make a medicated drinking water for the treatment of chickens and turkeys and to make a drinking water or drench for treatment of dairy calves and heifers and beef cattle.

EFFECTIVE DATE: April 15, 1999.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, has filed ANADA 200–258 that provides for use of SDM soluble powder in drinking water for the treatment of disease outbreaks of coccidiosis, fowl cholera, and infectious coryza in broiler and replacement chickens; and coccidiosis and fowl cholera in meat-producing turkeys. The ANADA also provides for use of SDM soluble powder in drinking water or as a drench for the treatment of shipping fever complex and bacterial pneumonia associated with *Pasteurella* spp. sensitive to sulfadimethoxine, and for calf diphtheria and foot rot associated with *Sphaerophorus necrophorus* sensitive to sulfadimethoxine, in dairy calves, dairy heifers, and beef cattle.

ANADA 200–258 is approved as a generic copy of Pfizer's NADA 46–285 Albon® (sulfadimethoxine soluble powder). ANADA 200–258 is approved as of March 4, 1999, and the regulations in 21 CFR 520.2220a(a)(2) are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.2220a [Amended]

2. Section 520.2220a *Sulfadimethoxine oral solution and soluble powder* is amended in paragraph (a)(2) by removing ''and 057561'' and adding in its place ''057561, and 059130''.

Dated: April 1, 1999.

George A. Mitchell,

Acting Deputy Director, Center for Veterinary Medicine.

[FR Doc. 99–9456 Filed 4–14–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Omeprazole

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merial Ltd. The NADA provides for oral use of omeprazole for the treatment and prevention of recurrence of gastric ulcers in horses and foals 4 weeks of age and older.

EFFECTIVE DATE: April 15, 1999.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7543.

SUPPLEMENTARY INFORMATION: Merial Ltd., 2100 Ronson Rd., Iselin, NJ 08830–3077, filed NADA 141–123 that provides for oral, veterinary prescription use of GastroGard® (omeprazole) oral paste for horses and foals 4 weeks of age and older for the treatment and prevention of recurrence of gastric ulcers. The NADA is approved as of March 16, 1999, and the regulations are amended by adding 21 CFR 520.1615 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512 of the Federal, Food, Drug and Cosmetic Act (the act) (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning March 16, 1999, because no active ingredient

(including any ester or salt thereof) has been previously approved in any other application filed under section 512(b)(1) of the act.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1615 is added to read as follows:

§ 520.1615 Omeprazole.

(a) *Specifications.* Each gram of oral paste contains 0.37 gram of omeprazole.

(b) *Sponsor.* See No. 050604 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use*—(1) *Amount.* For treatment of gastric ulcers, 1.8 milligrams of omeprazole per pound of body weight (4 milligrams per kilogram) once daily for 4 weeks. For prevention of recurrence of gastric ulcers, 0.9 milligram of omeprazole per pound of body weight (2 milligrams per kilogram) once daily for at least an additional 4 weeks.

(2) *Indications for use.* For treatment and prevention of recurrence of gastric ulcers in horses and foals 4 weeks of age and older.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: April 1, 1999.

George A. Mitchell,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 99–9455 Filed 4–14–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522 and 556

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone Acetate and Estradiol Benzoate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Fort Dodge Animal Health. The supplemental NADA provides for use of a trenbolone acetate-estradiol benzoate implant in steers fed in confinement for slaughter for increased rate of weight gain. At this time, FDA is also amending the regulation for trenbolone tolerances to establish an acceptable daily intake (ADI) for the drug.

EFFECTIVE DATE: April 15, 1999.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center For Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0217.

SUPPLEMENTARY INFORMATION: Fort Dodge Animal Health, Div. of American Home Products Corp., 800 Fifth St. NW., Fort Dodge, IA 50501, filed supplemental NADA 141–043 that provides for use of Synovex® Plus™ (200 milligrams (mg) trenbolone acetate and 28 mg estradiol benzoate) implanted in the ear of steers fed in confinement for slaughter for increased rate of weight gain in addition to its approved use for improved feed efficiency. The supplemental NADA is approved as of March 16, 1999. The regulations are amended in 21 CFR 522.2478 by redesignating paragraph (c) as (d), adding paragraph (c), and revising newly redesignated paragraph (d)(1)(ii) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In addition, an ADI for trenbolone has not been previously established. At this time, 21 CFR 556.739 is amended to provide an ADI for trenbolone.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under 21 U.S.C. 360b(c)(2)(F)(iii), this approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning March 16, 1999, because the supplement contains substantial evidence of the effectiveness of the drug involved, studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval and conducted or sponsored by the applicant. Market exclusivity applies only to use of the implant for increased rate of weight gain in confined steers.

FDA has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 522.2478 is amended by redesignating paragraph (c) as (d), reserving paragraph (c), and revising paragraph (d)(1)(ii) to read as follows:

§ 522.2478 Trenbolone acetate and estradiol benzoate.

* * * * *

(c) [Reserved]

(d) * * *

(1) * * *

(ii) *Indications for use.* For increased rate of weight gain and improved feed efficiency in steers fed in confinement for slaughter.

* * * * *

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

4. Section 556.739 is revised to read as follows:

§ 556.739 Trenbolone.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of trenbolone is 0.4 microgram per kilogram of body weight per day.

(b) *Tolerances.* A tolerance for total trenbolone residues in uncooked edible tissues of cattle is not needed.

Dated: April 1, 1999.

Andrew J. Beaulieu,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–9458 Filed 4–14–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Narasin and Nicarbazin With Bacitracin Methylene Disalicylate and Roxarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma Inc. The NADA provides for using approved narasin and nicarbazin, bacitracin methylene disalicylate (BMD), and roxarsone Type A medicated articles to make Type C medicated broiler chicken feeds.

EFFECTIVE DATE: April 15, 1999.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Gilbert, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed NADA 141–112 that provides for combining approved Maxiban™ (27 grams per pound (g/lb) each of narasin and nicarbazin), BMD® (10, 25, 30, 40, 50, 60, or 75 g/lb BMD), and 3–Nitro® (45.4, 90, or 227 g/lb roxarsone) Type A medicated articles to make Type C medicated broiler chicken feeds. The Type C feed contains 27 to 45 g/ton (t) each of narasin and nicarbazin, 50 g/t BMD, and 22.7 to 45.4 g/t roxarsone. The Type C feed is used for prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*, as an aid in the prevention of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin, for increased rate of weight gain, improved feed efficiency, and improved pigmentation.

The NADA is approved as of March 4, 1999, and the regulations are amended by adding 21 CFR 558.76(d)(3)(xxi), 558.363(d)(2)(iii), and 558.530(d)(5)(xxv), and by amending 21 CFR 558.366(c) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

This approval is for use of Type A medicated articles to make combination drug Type C medicated feeds. Narasin with nicarbazin and roxarsone are Category II drugs as defined in 21 CFR 558.3(b)(1)(ii). As provided in 21 CFR 558.4(b), an approved form FDA 1900 is required to make a Type C medicated feed from a Category II drug. Under 21 U.S.C. 360b(m), as amended by the Animal Drug Availability Act of 1996 (Pub. L. 104–250), medicated feed applications have been replaced by a requirement for feed mill licenses. Therefore, use of Type A medicated articles to make Type C medicated feeds as provided in NADA 141–112 is limited to manufacture in a licensed feed mill.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.76 is amended by adding paragraph (d)(3)(xxi) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(3) * * *

(xxi) Narasin with nicarbazin and roxarsone as in § 558.366.

3. Section 558.363 is amended by adding paragraph (d)(2)(iii) to read as follows:

§ 558.363 Narasin.

* * * * *

(d) * * *

(2) * * *

(iii) Bacitracin methylene disalicylate, nicarbazin, and roxarsone as in § 558.366.

4. Section 558.366 is amended in the table in paragraph (c) under entry ''27 to 45'' by alphabetically adding an entry for ''Naracin 27 to 45, bacitracin methylene disalicylate 50, and roxarsone 22.7 to 45.4'' to read as follows:

§ 558.366 Nicarbazin.

* * * * *

(c) * * *

Nicarbazin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
27 to 45				

Nicarbazin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
*	* * *	*	* *	*
	Narasin 27 to 45, bacitracin methylene disalicylate 50, and roxarsone 22.7 to 45.4.	Broiler chickens; prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*, as an aid in the prevention of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin, for increased rate of weight gain, improved feed efficiency, and improved pigmentation.	Feed continuously as sole ration. Withdraw 5 days before slaughter. Do not allow turkeys, horses or other equines access to formulations containing narasin. Ingestion of narasin by these species has been fatal. Do not feed to laying hens. Use as sole source of organic arsenic. Narasin and nicarbazin as provided by 000986, bacitracin methylene disalicylate and roxarsone by 046573.	046573
*	* * *	*	* *	*

5. Section 558.530 is amended by adding paragraph (d)(5)(xxv) to read as follows:

§ 558.530 Roxarsone.

* * * * *

(d) * * *

(5) * * *

(xxv) Bacitracin methylene disalicylate, narasin, and nicarbazin as in § 558.366.

Dated: April 1, 1999.

George A. Mitchell,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 99–9454 Filed 4–15–99; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in May 1999.

EFFECTIVE DATE: May 1, 1999.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

Among the actuarial assumptions prescribed in part 4044 are interest assumptions. These interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest assumptions are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest assumptions for valuing benefits in plans with valuation dates during May 1999.

For annuity benefits, the interest assumptions will be 5.70 percent for the first 20 years following the valuation date and 5.25 percent thereafter. The annuity interest assumptions represent an increase (from those in effect for April 1999) of 0.10 percent for the first 20 years following the valuation date and are otherwise unchanged. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. The lump sum interest assumptions are unchanged from those in effect for April 1999.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during May 1999, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 67 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used to Value Annuities and Lump Sums

TABLE I.—ANNUITY VALUATIONS

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*	*		*
May 1999	.0570	1–20	.0525	>20	N/A	N/A

TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0 \leq y \leqq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 \leq y \leqq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply.]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
67	05–1–99	06–1–99	4.25	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 9th day of April 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–9375 Filed 4–14–99; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–99–027]

Drawbridge Operation Regulations: Connecticut River, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The District Commander, First Coast Guard District has issued a temporary deviation from the Drawbridge Operation Regulations governing the operation of the Route 82 Swing Bridge, mile 16.8, across the Connecticut River between East Haddam and Haddam, Connecticut. This deviation from the regulations authorizes the bridge owner, the Connecticut Department of Transportation (CONNDOT), to open the swing span, on signal, Monday through Friday at 6:30 a.m., 1;30 p.m. and 8 p.m., and Saturday through Sunday at 9:30 a.m., 1:30 p.m., 4 p.m. and 8 p.m. Commercial vessels are not restricted to the above operating schedule. They may transit through the bridge at all times if at least a two-hour advance notice is given to the bridge tender by telephone at (860) 873–8106. This action is necessary to replace the bridge center bearing and wearing surface. Vessels that can pass under the bridge without a bridge opening may do so at any time.

DATES: This deviation is effective from April 2, 1999, through May 31, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Bridge Management Specialist, at (212) 668–7195.

SUPPLEMENTARY INFORMATION:

The Route 82 Swing Bridge, mile 16.8, across the Connecticut River has a vertical clearance of 22 feet at mean high water (MHW) and 25 feet at mean low water (MLW) in the closed position.

The CONNDOT requested a temporary deviation from the operating regulations listed at 33 CFR 117.205 for the Route 82 Swing Bridge in order to conduct necessary repairs to the bridge. This work is essential for public safety. The existing bridge center bearing and roadway wearing surface must be replaced as soon as possible to insure continued operation of the bridge.

Commercial vessels may transit through the bridge at all times if at least a two-hour advance notice is given to the tender by telephone at (860) 873–8106. Vessels that can pass under the bridge without an opening may do so at any time.

This deviation from the normal operating regulations is authorized under 33 CFR 117.35.

Dated: March 30, 1999.

R. M. Larrabee,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 99–9432 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

46 CFR Part 32

[USCG–1998–4443]

Emergency Control Measures for Tank Barges

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; reopening of comment period.

SUMMARY: The Coast Guard will hold a public meeting to discuss the interim rule on Emergency Control Measures for Tank Barges. The Coast Guard encourages interested parties to attend the meeting and submit comments for discussion during the meeting. In addition, the Coast Guard seeks written comments for any party who is unable

to attend the meeting. The Coast Guard is also reopening the comment period until June 10, 1999, to allow additional time for public comment.

DATES: The Coast Guard will hold the public meeting in Washington, DC, on May 12, 1999, from 9 a.m. to 12 p.m., or until all comments have been heard. This meeting may close early if all business is finished. Written material for discussion during the meeting should reach the Docket Management Facility on or before April 29, 1999. Written comments must reach the Docket Management Facility on or before June 10, 1999.

ADDRESSES: The Coast Guard will hold this public meeting at the U.S. Department of Transportation, room 10234, 400 Seventh Street SW., Washington, DC 20590–0001. You may mail your comments to the Docket Management Facility [USCG–1998–4443], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this notice. Comments, and documents as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL–401, on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this document, call Mr. Robert Spears, Project Manager, Office of Standards Development (G–MSR), Coast Guard, telephone 202–267–1099. For questions on viewing, or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice [USCG–1998–4443], and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES**. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period.

Information on Service for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Robert Spears at the address or phone number under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Background Information

In the interim rule on Emergency Control Measures for Tank Barges published on December 30, 1998 (63 FR 71754), we indicated that we would hold public meetings. Although none of the comments to the docket received by the end of the comment period (March 30, 1999) requested such meetings, we will hold a meeting, to ensure ample opportunity for the public to comment on this rule.

Public Meeting

This meeting is open to the public. Please note that a meeting may close early if all business is finished. Members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Coast Guard point of contact listed under **FOR FURTHER INFORMATION CONTACT** no later than, April 29, 1999.

The Coast Guard will begin the public meeting with a brief presentation discussing the interim rule.

Dated: April 9, 1999.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 99–9449 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–165]

RIN 2121–AA97

Regulated Navigation Area: Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel, and New Jersey Pierhead Channel, New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the Regulated Navigation Area (RNA) in the New York Harbor to include the Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel, and New Jersey Pierhead Channel, New York and New Jersey. This action is necessary because of the extensive channel deepening project being undertaken jointly by the Army Corps of Engineers and the Port Authority of New York and New Jersey. The RNA is needed to ensure the safety of vessels transiting the restricted channel during blasting and dredging operations.

DATES: This final rule is effective April 19, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, between 8 a.m., and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4191.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander B, Krenzien, Waterways Management Division, Coast Guard Activities New York (718) 354–4191.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 31, 1998, the Coast Guard published a notice of proposed rulemaking entitled Regulated Navigation Area: Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel, and New Jersey Pierhead Channel, New York and New Jersey in the **Federal Register** (63 FR 72219). The Coast Guard did not receive any letters commenting on the proposed rulemaking. No public hearing was requested, and none was held. Good cause exists for making this regulation

effective less than 30 days after **Federal Register** publication. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to reduce the risks of collisions, groundings, and other navigational mishaps associated with this channel deepening project. Additionally, vessels will be allowed to transit work areas where dredges and/or drill barges are located unless blasting is to be conducted. Delays resulting from blasting are expected to last no longer than 15 minutes and occur less than 4 times daily in any one area.

Background and Purpose

The Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel, and New Jersey Pierhead Channel are the areas designated as a RNA. These channels are located in the waters between Bayonne, New Jersey, Staten Island, New York, and Elizabeth/Newark, New Jersey. The RNA enhances vessel safety during the extensive channel deepening project that involves dredging and blasting in these areas. These channels connect the deepwater ports of New York Harbor. Current channel depths restrict the full economy of existing and future generations of deep draft vessels. Tankships arriving in the port with drafts approaching the forty five (45) foot controlling depths of Ambrose and Anchorage Channels must lighter some of their cargo to barges in the deep New York Harbor anchorages in order to safely transit the forty (40) foot channel depths. This results in substantial lightering and delay costs. Container vessels cannot lighter in the anchorages and therefore must load to less than full drafts. This project, which is expected to last approximately six (6) years, will deepen the existing forty (40) foot channel to forty five (45) feet to accommodate the deeper draft vessels. The dredging areas will continue to be available for use by the general public. Restrictions on vessels transits during this project are unchanged from the current regulations in § 165.165(d) except for (d)(1, 5, 7, and 9). Paragraph (d)(1) allows vessels to enter or transit a work area where drill barges and/or dredges are located once granted permission from Vessel Traffic Service New York (VTSNY). Blasting operations being conducted in the work area will normally preclude vessels from receiving permission. One-way traffic will be maintained during this project in work areas where drill barges and/or dredges are located. Paragraph (d)(5) specifies that the prevailing current will be measured from the Battery tide station. This is expected to reduce confusion among mariners because use of the Battery tide station is the port norm. Paragraph (d)(7) refers to the hawser and wire throughout the paragraph. Paragraph (d)(9) defines the phrase ''tugs with tows'' to include tugs with vessels or barges alongside or being pushed. This rulemaking is needed to reduce the risks of collisions, groundings, and other navigational mishaps associated with this project. These are the same restrictions taken during 1991–92 when dredging was last conducted in this vicinity. They were instituted then due to three groundings that resulted in one oil spill and one channel blockage. Public notifications for specific dredging dates will be made prior to the commencement of dredging via the Local Notice to Mariners, marine information broadcasts, facsimile, and at New York Harbor Operations Committee meetings. The expected starting date is April 19, 1999, in Work Area 2.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The effect of this regulation will not be significant for several reasons: vessels will be allowed to transit work areas where dredges and/or drill barges are located unless blasting is to be conducted, delays resulting from blasting are expected to last no longer than 15 minutes and occur less than 4 times daily in any one area, there are no restrictions on vessel traffic in the RNA in areas where there are no dredges or drill barges, the Port Authorities of New York and New Jersey are working with the U.S. Army Corps of Engineers on this project to ensure future generations of deep draft vessels are able to use the Port of New York/New Jersey, it will reduce substantial costs associated with lightering operations currently required by vessels unable to transit the harbor fully loaded, and advance notifications will be made to the local maritime community by the Local Notice to Mariners, facsimile, marine information broadcasts, and New York Harbor Operations Committee meetings. Additionally, these are the same restrictions taken during 1991–92 when dredging was last conducted in this vicinity and other than minor delays in vessel transit time, no impact was noted.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104–4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain *Federal mandates.* A Federal mandate is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This Final Rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under figure 2–1, paragraph 34(g), of Commandant

Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under ADDRESSES.

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this final rule and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This rule will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This rule will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

E.O. 12988, Civil Justice Reform. This rule meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–6, 160.5; 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub. L. 105–383.

2. Revise § 165.165 to read as follows:

§ 165.165 Regulated Navigation Area; Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel and New Jersey Pierhead Channel, New York and New Jersey.

(a) *Regulated Navigation Area (RNA).* All waters of the Kill Van Kull (KVK) Channel east of KVK Light 16A (LLNR 37340) in North of Shooters Island Reach, east of Shooters Island Light 2 (LLNR 37375) in South of Shooters Island Reach, and west of KVK Channel Junction Lighted Bell Buoy 'KV' (LLNR 37265) in Constable Hook Reach; all waters of Newark Bay Channel south of Newark Bay Light 19 (LLNR 37505); all waters of South Elizabeth Channel, Elizabeth Channel, Port Newark Channel, and New Jersey Pierhead Channel south of New Jersey Pierhead South Channel Lighted Buoy 5 (LLNR 37020).

(b) *Description of Work Areas in the RNA.*

(1) Work Area (1): The waters bounded by a line connecting the following points:

Latitude	Longitude
40°38′40.0″N	074°03′45.0″W
40°38′50.4″N	074°04′16.0″W
40°38′57.9″N	074°04′11.8″W
40°39′03.8″N	074°04′43.8″W
40°39′04.5″N	074°05′07.6″W
40°39′01.8″N	074°05′14.8″W
40°39′05.0″N	074°05′17.1″W
40°39′10.3″N	074°05′05.0″W
40°39′09.3″N	074°04′27.8″W
40°39′00.2″N	074°03′45.1″W
40°38′58.0″N	074°03′34.9″W
40°38′40.0″N	074°03′45.0″W

(2) Work Area (2): The waters bounded by a line connecting the following points:

Latitude	Longitude
40°38′50.4″ N	074°04′16.0″ W
40°38′57.5″ N	074°04′37.8″ W
40°38′59.2″ N	074°04′55.4″ W
40°38′57.4″ N	074°05′12.9″ W
40°38′47.5″ N	074°05′33.8″ W
40°38′45.8″ N	074°05′43.6″ W
40°38′49.4″ N	074°05′44.7″ W
40°38′51.0″ N	074°05′35.7″ W
40°39′04.7″ N	074°05′06.6″ W
40°39′03.7″ N	074°04′29.5″ W
40°38′57.9″ N	074°04′11.8″ W
40°38′50.4″ N	074°04′16.0″ W

(3) Work Area (3): The waters bounded by a line connecting the following points:

Latitude	Longitude
40°38′45.8″ N	074°05′43.6″ W
40°38′49.4″ N	074°05′44.7″ W
40°38′51.2″ N	074°05′35.8″ W
40°39′01.8″ N	074°05′14.8″ W
40°39′05.0″ N	074°05′17.1″ W
40°38′57.5″ N	074°05′32.3″ W
40°38′53.8″ N	074°05′44.1″ W
40°38′53.1″ N	074°05′56.8″ W
40°38′55.3″ N	074°06′38.1″ W
40°38′41.5″ N	074°07′18.3″ W
40°38′38.2″ N	074°07′41.4″ W
40°38′38.5″ N	074°07′46.0″ W
40°38′35.2″ N	074°07′49.0″ W
40°38′31.2″ N	074°07′50.0″ W
40°38′30.1″ N	074°07′41.3″ W
40°38′33.9″ N	074°07′15.1″ W
40°38′44.0″ N	074°06′45.7″ W
40°38′46.7″ N	074°06′25.9″ W
40°38′44.8″ N	074°05′49.6″ W
40°38′45.8″ N	074°05′43.6″ W

(4) Work Area (4): The waters bounded by a line connecting the following points:

Latitude	Longitude
40°38′31.2″ N	074°07′50.0″ W
40°38′35.2″ N	074°07′49.0″ W
40°38′36.6″ N	074°08′01.2″ W
40°38′28.2″ N	074°08′51.0″ W
40°38′35.2″ N	074°09′06.2″ W
40°38′30.0″ N	074°09′12.0″ W
40°38′24.8″ N	074°09′02.6″ W
40°38′24.0″ N	074°08′52.0″ W
40°38′31.5″ N	074°08′07.4″ W
40°38′31.8″ N	074°07′54.6″ W
40°38′31.2″ N	074°07′50.0″ W

(5) Work Area (5): The waters bounded by a line connecting the following points:

Latitude	Longitude
40°38′35.2″ N	074°07′49.0″ W
40°38′38.5″ N	074°07′46.0″ W
40°38′40.7″ N	074°08′01.3″ W
40°38′34.0″ N	074°08′41.0″ W
40°38′40.0″ N	074°08′52.0″ W
40°38′50.0″ N	074°08′55.0″ W
40°38′35.2″ N	074°09′06.2″ W
40°38′28.2″ N	074°08′51.0″ W
40°38′36.6″ N	074°08′01.2″ W
40°38′35.2″ N	074°07′49.0″ W

(6) Work Area (6): The waters bounded by a line connecting the following points:

Latitude	Longitude
40°39′17.0″N	074°08′38.0″W
40°40′21.0″N	074°08′00.0″W
40°40′34.3″N	074°07′54.0″W
40°40′35.9″N	074°08′03.9″W
40°40′33.2″N	074°08′12.0″W
40°40′26.6″N	074°08′17.9″W
40°39′34.3″N	074°08′55.8″W
40°39′30.8″N	074°08′58.2″W
40°39′21.6″N	074°08′50.2″W
40°39′17.0″N	074°08′38.0″W

(7) Work Area (7): The waters bounded by a line connecting the following points:

Latitude	Longitude
40°40′26.7″N	074°08′17.9″W
40°41′14.4″N	074°09′35.0″W
40°41′18.9″N	074°09′31.9″W
40°40′46.1″N	074°08′38.9″W
40°40′44.5″N	074°08′30.2″W

Latitude	Longitude
40°40′33.2″N	074°08′12.0″W
40°40′26.7″N	074°08′17.9″W

(8) Work Area (8): The waters bounded by a line connecting the following points:

Latitude	Longitude
40°39′30.8″N	074°08′58.2″W
40°39′40.6″N	074°09′22.5″W
40°39′43.5″N	074°09′25.8″W
40°39′44.8″N	074°09′24.9″W
40°39′32.8″N	074°08′55.2″W
40°39′30.8″N	074°08′58.2″W
AND	
40°39′21.6″N	074°08′50.2″W
40°39′17.0″N	074°03′38.0″W
40°38′50.0″N	074°08′55.0″W
40°38′30.0″N	074°09′12.0″W
40°38′33.3″N	074°09′19.5″W
40°38′46.8″N	074°09′22.8″W
40°39′07.7″N	074°08′58.8″W
40°39′21.6″N	074°08′50.2″W

(9) Work Area (9): The waters bounded by a line connecting the following points:

Latitude	Longitude
40°40′34.3″N	074°07′54.0″W
40°41′08.5″N	074°07′38.5″W
40°41′11.6″N	074°07′50.8″W
40°41′17.6″N	074°07′56.4″W
40°41′20.0″N	074°08′00.3″W
40°41′42.3″N	074°08′21.2″W
40°41′59.4″N	074°09′11.0″W
40°41′55.8″N	074°09′13.1″W
40°41′39.1″N	074°08′24.6″W
40°41′21.0″N	074°08′07.6″W
40°40′46.1″N	074°08′38.9″W
40°40′44.5″N	074°08′30.2″W
40°40′50.4″N	074°08′30.3″W
40°41′13.4″N	074°08′09.7″W
40°41′13.7″N	074°08′05.6″W
40°41′03.2″N	074°07′55.7″W
40°40′54.4″N	074°07′55.7″W
40°40′35.9″N	074°08′03.9″W
40°40′34.3″N	074°07′54.0″W

(e) *Projected dates for each work area.* Dredging is scheduled to commence in Work Area (2) on April 19, 1999. As contracts are let for dredging of each of the remaining work areas, commencement dates will be made available via the Local Notice to Mariners, marine information broadcasts, facsimile, and at New York Harbor Operations Committee meetings.

(d) *Regulations.* (1) No vessel shall enter or transit any work area where drill barges and/or dredges are located without permission of Vessel Traffic Service New York (VTSNY).

(2) Each vessel transiting in the vicinity of the work areas, where drill barges and/or dredges are located, is required to do so at no wake speed.

(3) No vessel shall enter the RNA when they are advised by the drilling barge or VTSNY that a misfire or hangfire has occurred. Vessels already underway in the RNA shall proceed to clear the impacted area immediately.

(4) Vessels, 300 gross tons or greater, and tugs with tows are prohibited from meeting or overtaking other vessels when transiting alongside an active work area.

(5) Vessels, 300 gross tons or greater, and tugs with tows transiting with the prevailing current (as measured from the Battery tide station) are regarded as the stand-on vessel.

(6) Prior to entering the RNA, the master, pilot or operator of each vessel, 300 gross tons or greater and tugs with tows, shall ensure that they have sufficient propulsion and directional control to safely navigate the area under the prevailing conditions, and shall notify VTSNY as to their decision regarding the employment of assist tugs while transiting the RNA.

(7) Hawser or wire length must not exceed 100 feet, measured from the towing bit on the tug to the point where the hawser or wire connects with the towed vessel or barge, for any vessel with another vessel/barge in tow.

(8) Waiver. The Captain of the Port, New York may, upon request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. An application for deviation must be received not less than 24 hours before the intended operation and must state the need and describe the proposal.

(9) Tugs with tows includes a tug with a vessel or barge in tow, alongside, or being pushed.

Dated: April 8, 1999.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 99–9431 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Danger Zone, Chesapeake Bay, Point Lookout to Cedar Point, Maryland

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: This rule amends the danger zone regulations by redesignating an aerial firing range as an aerial and surface firing range and increases the use of the firing range and target area in the waters of the Chesapeake Bay. It also increases the use of the firing range from Monday through Saturday, except holidays, to continuous use. The restricted area of the Hannibal Target previously encompassed a water area with a radius of 600 yards. The change increases the radius of the restricted area to 1000 yards, prohibits entry into the areas at all times and prohibits the public from climbing on the targets. These changes are necessary to protect the public from hazardous conditions which may exist as a result of the U.S. Navy's use of the area. Other editorial amendments are made to reflect changes in the Navy's organization.

EFFECTIVE DATE: May 17, 1999.

ADDRESSES: HQUSACE, CECW–OR, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, at (202) 761–1787, or Mr. Steve Elinsky, Corps Baltimore District, at (410) 962–4503.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892 U.S.C. 3) the Corps is amending the danger zone and restricted area regulations in 33 CFR Part 334.200. The Commanding Officer of the U.S. Naval Air Station, Patuxent River, Maryland has requested that the Corps amend the danger zone and restricted area regulations by redesignating the existing ''aerial firing range'' as an ''aerial and surface firing range'' and increasing the Navy's use of the range from Monday through Saturday except holidays, to continuous use. The Navy is also enlarging the existing restricted area of the Hannibal Target from a water area with a radius of 600 yards to a radius of 1000 yards and making entry into the area prohibited at all times. The restricted area is presently closed during daylight hours except to vessels authorized entry by the Navy command. We are also adding a prohibition on climbing on the targets. These changes are necessary to protect the public from hazardous conditions which may exist as a result of the Navy's use of this area. Enforcement of these regulations is being changed from the Commander of the Naval Air Test Center to the Commanding Officer of the Naval Air Station.

Procedural Requirements

A. Review Under Executive Order 12866

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

B. Review Under the Regulatory Flexibility Act

These rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

C. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action will not have a significant impact to the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District Office listed at the end of **FOR FURTHER INFORMATION CONTACT,** above.

D. Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

E. Submission to Congress and the Comptroller General of the General Accounting Office

Pursuant to Section 801(a)(1)(A) of the Administrative Procedure Act as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this rule to the U.S. Senate, House of Representatives, and the Comptroller General of the General Accounting Office. This rule is not a major rule within the meaning of Section 804(2) of the Administrative Procedure Act, as amended.

List of Subjects in 33 CFR Part 334

Danger zones, navigation (water), transportation.

For the reasons set out in the preamble, the Corps amends 33 CFR Title 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.200 is amended by revising the section heading; by revising the last sentence in paragraph (a)(1); and by revising paragraphs (b)(2) and (b)(3) and (c) to read as follows:

§ 334.200 Chesapeake Bay, Point Lookout to Cedar Point; aerial and surface firing range and target area, U.S. Naval Air Station, Patuxent River, Maryland, danger zones.

(a) * * *

(1) * * * Aerial and surface firing and dropping of nonexplosive ordnance will be conducted throughout the year.

* * * * *

(b) * * *

(2) *The area.* A circular area with a radius of 1000 yards having its center at latitude 38 degrees 02 minutes 18 seconds longitude 76 degrees 09 minutes 26 seconds identified as Hannibal Target.

(3) *The regulations.* Nonexplosive projectiles and bombs will be dropped at frequent intervals in the target areas. Hooper and Hannibal target areas shall be closed to navigation at all times, except for vessels engaged in operational and maintenance activities as directed by the Commanding Officer of the U.S. Naval Air Station, Patuxent River, Maryland. No person in the waters, vessel, or other craft shall enter or remain in the closed area or climb on targets except on prior written approval of the Commanding Officer, U.S. Naval Air Station, Patuxent River, Maryland.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer of the Naval Air Station, Patuxent River, Maryland and such agencies as he or she may designate.

Dated: February 17, 1999.

Eric R. Potts,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 99–8609 Filed 4–14–99; 8:45 am]

BILLING CODE 3710–41–P

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 301

[FTR Amdt. 75—1998 Edition]

RIN 3090–AG86

Federal Travel Regulation; General and Temporary Duty (TDY) Travel Allowances (Maximum Per Diem Rates)

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule; correction.

SUMMARY: This document corrects entries listed in the prescribed maximum per diem rates for locations within the continental United States (CONUS) contained in a final rule correction appearing in the **Federal Register** of Wednesday, February 10, 1999 (64 FR 6550).

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Jim Harte, Travel and Transportation Management Policy Division, telephone (202) 501–1538.

SUPPLEMENTARY INFORMATION: In rule document 99–3085 beginning at 64 FR 6550 in the issue of Wednesday, February 10, 1999, make the following corrections:

Appendix A to Chapter 301—[Corrected]

1. On page 6555, under the State of Florida, under the entry Vero Beach, revise the seasonal date of ''(May 1–December 31)'' to read ''(May 1–January 31)''.

2. On page 6563, under the State of Virginia, under the entry Virginia Beach*, revise the seasonal dates ''(June 1–August 31)'' to read ''(May 1–September 30)'' and ''(September 1–May 31)'' to read ''(October 1–April 30)'', respectively.

The corrected text should read as follows:

Appendix A to Chapter 301—Prescribed Maximum per Diem Rates for CONUS

* * * * *

Per diem locality: key city [1]	County and/or other defined location [2 3]	Maximum lodging amount (room rate only—no taxes)	+	M&IE rate	=	Maximum per diem rate [4]
		(a)		(b)		(c)
* * * *	* * *	*		*		*
FLORIDA						
* * * *	* * *	*		*		*
Vero Beach	Indian River					
(February 1–April 30)		72		38		110
(May 1–January 31)		50		38		88
* * * *	* * *	*		*		*
VIRGINIA						
* * * *	* * *	*		*		*
Virginia Beach*	Virginia Beach (also Norfolk, Portsmouth and Chesapeake)*.					
(May 1–September 30)		97		38		135
(October 1–April 30)		54		38		92
* * * *	* * *	*		*		*

Dated: April 9, 1999.

William T. Rivers,

Acting Director, Travel and Transportation Management Policy Division.

[FR Doc. 99–9407 Filed 4–14–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981014259–8312–02; I.D. 040599E]

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustments to the 1999 Summer Flounder Commercial Quota

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota adjustment for 1999.

SUMMARY: This document contains adjustments to the 1999 commercial summer flounder quotas. This action complies with the regulations that implement the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) that requires landings in excess of a state's individual quota be deducted from a state's respective quota for the following year. The public is advised that preliminary adjustments have been made and is informed of the revised quotas for the affected states.

DATES: Effective April 9, 1999, through December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fisheries Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION:

Background

NMFS published a document in the **Federal Register** on February 3, 1999 (64 FR 5196), announcing preliminary adjustments to the 1999 summer flounder commercial quotas. The document also corrected errors in Rhode Island's commercial summer flounder allocation specified in Table 1.—1999 State Commercial Quotas that was published on December 31, 1998 (63 FR 72203). Portions of the text describing revisions made to Table 1 of the December 31 publication contained errors and some text was omitted. Therefore, NMFS published an additional document in the **Federal Register** on February 24 1999 (64 FR 9088), which corrected only the text portion of the preamble to the February 3, 1999, correction document related to the Rhode Island commercial summer flounder allocation.

Adjustment to the 1999 commercial summer flounder quotas is necessary because NMFS received data late from some state agencies. State data collections are incomplete for Connecticut, Maryland, Virginia, and North Carolina; therefore, further adjustments may be necessary for those states.

The preliminary 1998 landings and resulting overages for all states are given in Table 1. The resulting adjusted 1999 commercial quota for each state is given in Table 2. In Table 3, the adjustment has been made to maintain the incidental component of the commercial quota at 32.7 percent of the total (as recommended in the final specifications).

TABLE 1.—SUMMER FLOUNDER PRELIMINARY 1998 LANDINGS BY STATE

State	1998 quota		Preliminary 1998 landings		1998 overage	
	Lb	Kg [1]	Lb	Kg [1]	Lb	Kg [1]
ME	4,791	2,173	5,626	2,552	835	379
NH	51	23	0	0	0	0
MA	721,899	327,448	709,387	321,778	0	0
RI	1,742,583	790,422	1,715,716	778,249	0	0
CT	250,457	113,605	249,398	113,127	0	0

TABLE 1.—SUMMER FLOUNDER PRELIMINARY 1998 LANDINGS BY STATE—Continued

State	1998 quota		Preliminary 1998 landings		1998 overage	
	Lb	Kg [1]	Lb	Kg [1]	Lb	Kg [1]
NY	763,419	346,281	822,151	372,928	58,732	26,647
NJ	1,858,363	842,939	1,862,800	844,966	4,437	2,027
DE	[2] (14,534)	(6,593)	(10,905)	(4,947)	(25,439)	(11,539)
MD	199,876	90,662	209,358	94,965	9,482	4,303
VA	2,362,877	1,071,783	2,543,278	1,153,631	180,401	81,848
NC	3,049,589	1,383,270	2,903,527	1,317,040	0	0
Total [3]	10,939,371	4,962,013	11,010,336	4,994,289	228,448	103,665

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[2] Parentheses indicate a negative number.
[3] Total quota and total landings do not equal overage because they reflect positive quota balances in several states.

TABLE 2.—SUMMER FLOUNDER PRELIMINARY ADJUSTED 1999 QUOTAS

State	1999 initial quota		1999 adjusted quota	
	Lb	Kg [1]	Lb	Kg [1]
ME	5,285	2,397	4,450	2,018
NH	51	23	51	23
MA	757,842	343,751	757,842	343,751
RI	1,742,583	790,422	1,742,583	790,422
CT	250,791	113,757	250,791	113,757
NY	849,680	385,408	790,948	358,768
NJ	1,858,363	842,939	1,853,926	840,927
DE	1,977	897	[2] (25,439)	(11,539)
MD	226,570	102,770	217,088	98,469
VA	2,373,569	1,976,633	2,193,168	994,804
NC	3,044,589	1,381,002	3,044,589	1,381,002
Total	11,111,300	5,039,999	10,829,997	4,912,404

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[2] Parentheses indicate a negative number.

TABLE 3.—SUMMER FOUNDER 1999 STATE QUOTAS AND INCIDENTAL CATCH ALLOCATIONS

State	Percent share	Directed		Incidental catch		Total	
		Lb	Kg [1]	Lb	Kg	Lb	Kg
ME	0.04756	2,995	1,358	1,455	660	4,450	2,018
NH	0.00046	34	16	17	8	51	23
MA	6.82046	510,028	231,345	247,814	112,407	757,842	343,751
RI	15.68298	1,172,758	531,954	569,825	258,468	1,742,583	790,422
CT	2.25708	168,782	76,558	82,009	37,199	250,791	113,757
NY	7.64699	532,308	241,451	258,640	117,317	790,948	358,768
NJ	16.72499	1,247,692	565,944	606,234	274,983	1,853,926	840,927
DE	0.01779	[2] (17,120)	(7,766)	(8,319)	(3,773)	(25,439)	(11,539)
MD	2.03910	146,100	66,270	70,988	32,200	217,088	98,469
VA	21.31676	1,476,002	669,503	717,166	325,301	2,193,168	994,804
NC	27.44584	2,049,008	929,415	995,581	451,588	3,044,589	1,381,002
Total	100.00000	7,288,588	3,306,048	3,541,409	1,606,356	10,829,997	4,912,404

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[2] Parentheses indicate a negative number.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority 16 U.S.C. 1801 *et seq.*

Dated: April 8, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–9339 Filed 4–9–99; 4:15 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 64, No. 72
Thursday, April 15, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–23]

Proposed Modification of Class E Airspace; Neillsville, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Neillsville, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 27, and a Nondirectional Beacon (NDB) SIAP to Rwy 27, Amendment (Amdt) 6, have been developed for Neillsville Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before June 2, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–23, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be exmained in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AGL–23.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Neillsville, WI, to accommodate aircraft executing the proposed GPS Rwy 27 SIAP, and NDB Rwy 27 SIAP, Amdt 6, at Neillsville Municipal Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g) 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Neillsville, WI [Revised]

Neillsville Municipal Airport, WI
(Lat. 44°33′29″ N., long. 90°30′44″ W.)
Neillsville NDB
(Lat. 44°33′26″ N., long. 90°30′55″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Neillsville Municipal Airport and within 2.5 miles each side of the 091° bearing from the Neillsville NDB extending from the 6.3-mile radius to 7.0 miles east of the airport.

* * * * *

Issued in Des Plaines, Illinois on March 31, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–9302 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Chapter I

Section 1115 Transportation Equity Act for the 21st Century Negotiated Rulemaking Committee Meeting

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Negotiated rulemaking committee meeting.

SUMMARY: The Department of the Interior is giving notice to the public that the Section 1115 Transportation Equity Act for the 21st Century (TEA–21) Negotiated Rulemaking Committee will be meeting to work toward the formulation of Indian Reservation Roads Program regulations and funding formula.

DATES: The public meeting will be held on the following days, April 26–30, 1999, beginning at 8:00 a.m. PDT each day.

ADDRESSES: The meeting will be held at the Portland DoubleTree Hotel, Portland-Lloyd Center, 1000 NE Multnomah, Portland, Oregon 97232, (503) 249–3100.

FOR FURTHER INFORMATION CONTACT: Additional information may be obtained from Mr. Steve Wilkie, Chief, Branch of Program Operations, Division of Transportation, Bureau of Indian Affairs, Department of the Interior, 201 3rd St. NW, Suite 430, Albuquerque, NM 87102, (505) 346–7221, Fax (505) 346–2543.

SUPPLEMENTARY INFORMATION: 23 U.S.C. 202, as amended by TEA–21, required the Secretary of the Interior to issue regulations and a funding formula governing the Indian Reservation Roads Program, pursuant to a negotiated rulemaking. The Section 1115, TEA–21 Negotiated Rulemaking Committee was established to fulfill these objectives.

The agenda for the April meeting will include:

1. Approval of Protocols.
2. Approval of Minutes.
3. Other Business.

This meeting is open to the public. However, the public is given notice that in the event a caucus is called, only federal members or members of Indian tribes (as appropriate) will be permitted to attend the caucus session. Members of the public may present oral or written statements with the approval or recognition of a Committee Co-Chair.

The tentative schedule of meetings for the Committee is as follows:

1. May 25–27, 1999, 8 a.m. to 5 p.m., Washington, DC.
2. June 22–24, 1999, 8 a.m. to 5 p.m., Minneapolis, MN.
3. July 27–29, 1999, 8 a.m. to 5 p.m., Sacramento, CA.
4. August 24–26, 1999, 8 a.m. to 5 p.m., Anchorage, AK.
5. October 5–7, 1999, 8 a.m. to 5 p.m., Bismarck, ND.
6. November 2–4, 1999, 8 a.m. to 5 p.m., Phoenix, AZ.
7. February 15–17, 2000, 8 a.m. to 5 p.m., Washington, DC.

Dated: April 9, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–9374 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 740, 746 and 750

RIN 1029–AB83

Indian and Federal Lands

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public hearing and extension of public comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) has received several requests to hold a public hearing and a request for an extension of the public comment period. By this document, OSM is announcing the scheduling of a public hearing and the extension of the comment period for the proposed rule published on February 19, 1999 (64 FR 8464), clarifying the definition of ''Indian lands'' and making conforming amendments to the Federal lands program and Indian lands program. The comment period was originally scheduled to close on April 20, 1999, and is now being extended for 60 days. Interested persons are invited to participate in the proceeding and to submit relevant factual information on the matter.

DATES: OSM will hold the public hearing on June 8, 1999, at 10:00 am. OSM will accept written comment on the proposed rule until 5 p.m., Eastern time, on June 21, 1999.

ADDRESSES: The public hearing will be held at the Crowne Plaza Pyramid Hotel, 5151 San Francisco Road, NE, Albuquerque, New Mexico 87109.

You may mail or hand-deliver comments to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 101, 210–SIB, 1951 Constitution Avenue, NW, Washington, D.C. 20240. You may also submit comments to OSM via the Internet at: osmrules@osmre. gov.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Hudak, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W., Washington, DC 20240; Telephone: (202) 208–2661. E-Mail address: shudak@osmre.gov.

SUPPLEMENTARY INFORMATION: In response to requests from members of the public, we are extending the public comment period for the proposed rule published on February 19, 1999 (64 FR 8464). The comment period was originally scheduled to close on April 20, 1999, and is now being extended for

60 days. In the rule, we are proposing to amend our regulations by clarifying the definition of ''Indian lands'' at 30 CFR 700.5 for purposes of implementing the Surface Mining Control and Reclamation Act of 1977. The proposed clarification is required pursuant to a settlement agreement between the Department of the Interior and the Navajo Nation and Hopi Indian Tribe to settle the tribes' challenges to a 1989 rulemaking governing coal leases and surface coal mining and reclamation operations on Indian lands. OSM is also proposing various changes to the Federal lands program at 30 CFR parts 740 and 746, and the Indian lands program at 30 CFR part 750, in conjunction with the proposed clarification to the definition of Indian lands.

Dated: April 8, 1999.

Mary Josie Blanchard,

Assistant Director, Program Support.

[FR Doc. 99–9411 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SPATS No. ND–039–FOR; North Dakota Amendment No. XXVIII]

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the North Dakota regulatory program (hereinafter, the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to a North Dakota statute pertaining to who may preside over formal hearings and informal conferences. The amendment is intended to revise a North Dakota statute to be consistent with its counterpart regulation.

DATES: We will accept written comments until 4:00 p.m., m.d.t. on May 17, 1999. If requested, a public hearing on the proposed amendment will be held on May 10, 1999. We will accept requests to present oral testimony at the hearing until 4:00 p.m., m.d.t. on April 30, 1999.

ADDRESSES: You should mail or hand-deliver written comments to Guy Padgett at the address shown below.

Copies of the North Dakota program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses shown below during normal business hours, Monday through Friday, excluding holidays. Also, we will send one free copy of the proposed amendment to you if you contact the OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East ''B'' Street, Federal Building, Room 2128, Casper, Wyoming 82601–1918, Telephone: 307/261–6550, Internet: GPadgett@OSMRE.GOV

James R. Deutsch, Director, Reclamation Division, North Dakota Public Service Commission, 600 E. Boulevard Ave., Dept. 408, Bismarck, North Dakota 58505–0480, Telephone: 701/328–2400.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: 307/261–6550. Internet: GPadgett@OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

I. Background of the North Dakota Program To Regulate Surface Coal Mining

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota Program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program can be found in the December 15, 1980, **Federal Register** (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.15 and 934.16.

II. Proposed Amendment

In a letter dated March 31, 1999, North Dakota submitted a proposed amendment to its program to regulate surface coal mining pursuant to SMCRA (North Dakota Amendment number XXVIII), administrative record No. ND–CC–01, 30 U.S.C. 1201 *et seq.*). North Dakota submitted the proposed amendment at its own initiative in order to make the statute, the North Dakota Century Code (NDCC), consistent with its regulation, the North Dakota Administrative Code (NDAC), and also to make it in compliance with SMCRA. The provision of NDCC that North Dakota proposes to revise is: NDCC Chapter 38–14.1–30, Administrative review of commission rulings—Formal hearings. Specifically, North Dakota proposes to revise its statute to state that no person who presides over an informal conference in reference to a permit application may preside at a formal administrative hearing or participate in making the final administrative decision.

III. What To Do if You Want To Comment on the Proposed Statute Change

In accordance with the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the North Dakota program to regulate surface coal mining.

1. Written Comments

Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Anyone wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on April 30, 1999. Anyone who is physically challenged and who has need for special accommodations to attend a public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, it will not be held.

We request that you file a written statement at the time of the hearing since it would assist the transcriber. Submission of written statements in advance of the hearing will allow us to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until everyone scheduled to testify has been heard. Anyone in the audience who has not been scheduled to testify, and who wishes to do so, will be heard following those who have been scheduled. The hearing will end after everyone scheduled to testify and anyone in the

audience who wishes to testify has been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with us to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 7, 1999.

Brent Walquist,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 99–9413 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–99–009]

RIN 2115–AE46

Special Local Regulation: Fireworks Displays Within the First Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a revision to the Special Local Regulation (SLR), which governs annual fireworks displays (events) within the First Coast Guard District. This revision will expand the descriptions of the events' dates, times, and locations. A new easier-to-read table format will be introduced, which will list events by month, date, and location. Obsolete events will be removed, and new events will be added. This regulation is necessary to control vessel traffic within the immediate vicinity of the fireworks launch sites and to ensure the safety of life and property during each event.

DATES: Comments must be received on or before June 14, 1999.

ADDRESSES: Comments should be mailed to Commander (osr), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, MA 02110–3350, or may be delivered to Room 734 at the same address, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Petty Officer William M. Anderson, Office of Search and Rescue, First Coast Guard District, (617) 223–8460.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Each person submitting comments should include his or her name and address, identify this notice (CGD01–99–009) and the specific section of the proposal to which each comment applies, and give the reason for each comment. Any person requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. All comments received during the comment period will be considered by the Coast Guard and may change this proposal.

The Coast Guard has no plans to hold a public hearing. Persons may request a public hearing by writing to Commander (osr), First Coast Guard District, at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If the Coast Guard determines that oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Each year, organizations in the First District sponsor fireworks displays in the same general location and time period. The table in 33 CFR 100.114 contains information provided to the Coast Guard by the events' sponsors. The event description provides approximate dates and location which take place annually. Each event uses a barge or on-shore site as the fireworks

launch platform. The special local regulations control vessel movement within a 500-yard radius around the launch platforms to ensure the safety of persons and property. Coast Guard personnel on-scene may allow persons within the 500-yard radius should conditions permit. The Coast Guard may publish notices in the **Federal Register**, if an event sponsor reports a change to the listed event venue or date.

Discussion of Proposed Rule

The Coast Guard proposes to revise the special local regulation in Section 100.114 by adding and deleting several fireworks displays. The revised list of events is based on input received from organizations (event sponsors) throughout the First Coast Guard District. The following events are to be added to 33 CFR 100.114, retitled Fireworks Displays within the First Coast Guard District:

NEW EVENTS

Numbers (new)	Dates	Names
6.2	Last week in June.	Windjammer Days; Fireworks
7.6	July 2nd, 3rd and 4th.	Playland Park

NEW EVENTS—Continued

Numbers (new)	Dates	Names
7.10	Friday or Saturday before July 4th.	Hingham 4th-of-July; Fireworks
7.21	July 4th	Beverly Farms; Fireworks
7.30	July 4th	Newport City Fireworks
7.46	July 4th	City of Yonkers
12.7	December 31st.	Newport Fireworks

TABLE LEGEND

This legend shows how individual events appear in the Fireworks Display Table.

State: Event number	Annual Scheduled day	Name: Name. Sponsor: Sponsor. Time: Scheduled start and end times. Location: Fireworks barge or launch.

Regulatory Evaluation

This proposal is not a significant regulatory action under Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be minimal by reason of the late start times of each event, the short duration of each event, the advance notice provided to the marine community, and the location and small size of each regulated area. A full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reasons stated in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this rule and you have questions concerning its provisions or options for compliance, please call Petty Officer William M. Anderson, telephone 617–223–8460.

The Ombudsman of Regulatory Enforcement for Small Business and Agriculture, and 10 Regional Fairness Boards, were established to receive comments from small businesses about enforcement by Federal agencies. The Ombudsman will annually evaluate such enforcement and rate each agency's responsiveness to small business. If you wish to comment on enforcement by the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Unfunded Mandates

Under section 201 of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531), the Coast Guard assessed the effects of this proposed rule on State, local, and tribal governments, in the aggregate, and on the private sector. The Coast Guard determined that this regulatory action requires no written statement under section 202 of the UMRA (2 U.S.C. 1532) because it will not result in the expenditure of $100,000,000 in any one year by State, local, or tribal governments, in the aggregate, or by the private sector.

Collection of Information

This proposal contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this proposed rule and concluded that under figure 2–1, paragraph 34(h), of COMDTINST 16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Records and recordkeeping requirements, Waterways.

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

PART 100—[AMENDED]

1. Revise citation of authority for Part 100 to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 33 CFR 100.35; 49 CFR 1.46.

2. Revise § 100.114 and its heading to read as follows:

§ 100.114 Fireworks displays within the First Coast Guard District.

(a) Regulated area. That area of navigable waters within a 500-yard radius of the launch platform for each fireworks display listed in the following table.

FIREWORKS DISPLAY TABLE

	May	
New York: 5.1	First and Second Saturdays in May.	Name: Ellis Island Medals of Honor Ceremony. Sponsor: The Forum. Time: 10:00 p.m. to 12:00 a.m. Location: New York Harbor, Upper Bay. A barge approximately 360 yards east of Ellis Island. 40°41′15″N, 074°02′09″W (NAD 1983).
New York: 5.2	Friday before Memorial Day.	Name: Hempstead Harbor. Sponsor: Town of North Hempstead, NY. Time: 8:30 p.m. to 10:30 p.m. Location: Hempstead Harbor. A barge approximately 335 yards north of Bar Beach. 40°49′54″N, 073°39′14″W (NAD 1983).
New York: 5.3	Memorial Day	Name: South Street Seaport Memorial Day. Sponsor: South Street Seaport Marketplace. Time: 8:00 p.m. to 10:00 p.m. Location: East River Manhattan. A barge approximately 475 yards south of the Brooklyn Bridge. 40°42′10″N, 074°00′01″W (NAD 1983).
Massachusetts: 5.4	A night during Memorial Day Weekend.	Name: Hull Memorial Day Festival. Sponsor: Town of Hull. Time: 8:00 p.m. to 10:00 p.m. Location: Barge located 200 yards off Nantasket Beach, Hull, MA.
	June	
New York: 6.1	Third and fourth Tuesdays in June.	Name: Staten Island Summer. Sponsor: Borough of Staten Island. Time: 8:30 p.m. to 10:30 p.m. Location: New York Harbor, Lower Bay—approximately 350 yards east of South Beach, Staten Island 40°35′11″N, 074°03′42″W (NAD 1983).
Maine: 6.2	A night during the last week in June.	Name: Windjammer Days Fireworks. Sponsor: Boothbay Harbor Chamber of Commerce. Time: 9:00 p.m. to 11:00 p.m. Location: McFarland Island, Boothbay Harbor, Boothbay, ME. 43°50′48″N, 069°37′36″W (NAD 1983).
Connecticut: 6.3	A night during the last week in June.	Name: Barnum Festival Fireworks. Sponsor: The Barnum Foundation. Time: 8:00 p.m. to 10:00 p.m. Location: Seaside Park—Bridgeport Harbor, Bridgeport, CT.
Connecticut: 6.4	A night during the last week in June (or first week in July).	Name: American Legion, Post 83: Fireworks. Sponsor: Town of Branford, American Legion Post. Time: 9:00 p.m. to 10:00 p.m. Location: Branford Ponit, Branford, CT 41°21′N, 072°05′20″W (NAD 1983).
New York: 6.5	Last Sunday in June	Name: Heritage of Pride. Sponsor: Heritage of Pride Inc. Time: 9:30 p.m. to 11:30 p.m. Location: Hudson River, Manhattan, NY. A barge approximately 400 yards west of Pier 54. 40°44′31″N, 074°01′00″W (NAD 1983).
Massachusetts: 6.6	Thursday before prior to July 4th.	Name: Boston Harborfest Fireworks. Sponsor: Harborfest Committee. Time: 9:30 p.m. to 10:30 p.m. Location: Just Off Coast Guard Base, Boston Harbor, MA 42°22′53″N, 71°02′56″W (NAD 1983).

FIREWORKS DISPLAY TABLE—Continued

	July	
New York:		
7.1	Each Tuesday in July ...	Name: Staten Island Summer. Sponsor: Borough of Staten Island. Time: 8:30 p.m. to 10:30 p.m. Location: New York Harbor, Lower Bay—approximately 350 yards east of South Beach, Staten Island 40°35′11″N, 074°03′42″W (NAD 1983).
Massachusetts:		
7.2	Thursday before July 4th.	Name: Boston Harborfest Fireworks. Sponsor: Harborfest Committee. Time: 9:30 p.m. to 10:30 p.m. Location: Just Off Coast Guard Base, Boston Harbor, MA 42°22′53″N, 71°02′56″W (NAD 1983).
Connecticut:		
7.3	A night during the first week in July (or last week in June).	Name: American Legion, Post 83: Fireworks. Sponsor: Town of Branford, American Legion Post. Time: 9:00 p.m. to 10:00 p.m. Location: Branford Point, Branford, CT 41°21′N, 072°05′20″W (NAD 1983).
New York:		
7.4	A night during the first week in July.	Name: Devon Yacht Club Fireworks. Sponsor: Devon Yacht Club, Amagansett, NY. Time: 9:00 p.m. to 10:00 p.m. Location: Devon Yacht Club, Amagansett, NY 40°59′5″N, 072°06′5″W (NAD 1983).
New York:		
7.5	July 1st	Name: Wards Island. Sponsor: New York Power Authority. Time: 8:30 p.m. to 10:30 p.m. Location: East River, Wards Island, NY. A land shoot approximately 200 yards northeast of the Triboro Bridge. 40°46′55.5″N, 073°55′33″W (NAD 1983).
New York:		
7.6	July 2nd, 3rd and 4th	Name: Playland Park. Sponsor: Playland Park. Time: 9 p.m. to 11 p.m. Location: Western Long Island Sound, a barge anchored in approximate position 40°57′47″N, 073°40′06″W (NAD 1983), approximately 400 yards northeast of Rye Beach Breakwater.
Maine:		
7.7	A night during the first two weeks in July.	Name: Schooner Days Fireworks. Sponsor: Town of Rockland Chamber of Commerce. Time: 8:00 p.m. to 10:00 p.m. Location: Rockland Harbor, Rockland, ME.
Connecticut:		
7.8	A night during the first two weeks in July.	Name: Stamford Fireworks. Sponsor: City of Stamford. Time: 8:00 p.m. to 10:00 p.m. Location: Westcott Cove, Stamford, CT.
New York:		
7.9	A night during the first two weeks in July.	Name: Town of Babylon Fireworks. Sponsor: Town of Babylon, NY. Time: 8:00 p.m. to 10:00 p.m. Location: Nezeras Island, Babylon, NY.
Massachusetts:		
7.10	Friday or Saturday before July 4th.	Name: Hingham 4th-of-July Fireworks. Sponsor: Town of Hingham, MA Time: 8:00 p.m. to 10:00 p.m. Location: Hingham Harbor, Hingham, MA 42°15′30″N, 70°53′2″W (NAD 1983).
Massachusetts:		
7.11	Friday or Saturday before July 4th.	Name: Weymouth 4th-of-July Fireworks. Sponsor: Town of Weymouth Harbormaster. Time: 8:30 p.m. to 10:45 p.m. Location: Weymouth Fore River, Weymouth, MA 42°15′30″N, 70°56′6″W (NAD 1983).
Vermont:		
7.12	July 3rd	Name: Burlington Fireworks Display. Sponsor: City of Burlington, VT. Time: 8:30 p.m. to 11:00 p.m. Location: Lake Champlain, Burlington Bay, VT. A barge beside the Burlington Bay Breakwater. 44°28′30.5″N, 073°13′32″W (NAD 1983).
Massachusetts:		
7.13	July 3rd	Name: Gloucester Fireworks. Sponsor: Gloucester Chamber of Commerce. Time: 8:00 p.m. to 10:00 p.m. Location: Gloucester Harbor, Stage Fort Park, Gloucester, MA.

FIREWORKS DISPLAY TABLE—Continued

Connecticut:		
7.14	July 3rd	Name: Summer Music Fireworks. Sponsor: Summer Music, Inc. Time: 8:00 p.m. to 10:00 p.m. Location: Niantic River, Harkness Park, Waterford, CT.
New Jersey:		
7.15	July 3rd	Name: Fireworks on the Navesink. Sponsor: Red Bank Fireworks Committee. Time: 8:30 p.m. to 10:30 p.m. Location: Navesink River, a barge approximately 360 yards northwest of Red Bank Reach, NJ. 40°21′20″N, 074°04′10″W (NAD 1983).
Maine:		
7.16	July 4th (Rain date: July 5th.	Name: Bangor Fireworks. Sponsor: Bangor 4th of July Corporation. Time: 9:30 p.m. to 10 p.m. Location: Bangor/Brewer waterfront, ME 44°47′6″N, 068°11′8″W (NAD 1983).
Maine:		
7.17	July 4th	Name: Bar Harbor Fireworks. Sponsor: Bar Harbor Chamber of Commerce. Time: 8:30 p.m. to 9:30 p.m. Location: Bar Harbor/Bar Island, ME. 44°23′6″N, 068°11′8″W (NAD 1983).
Maine:		
7.18	July 4th	Name: Stewart's 4th-of-July Fireworks Display. Sponsor: W. P. Stewart. Time: 9:00 p.m. to 9:30 p.m. Location: Somes Sound, Northeast Harbor, ME 44°18′3″N, 068°18′2″W (NAD 1983).
Maine:		
7.19	July 4th	Name: Walsh's Fireworks. Sponsor: Mr. Patrick Walsh. Time: 8:30 p.m. to 9:30 p.m. Location: Union River Bay, ME 44°23′5″N, 068°27′2″W (NAD 1983).
Massachusetts:		
7.20	July 4th	Name: Town of Barnstable Fireworks. Sponsor: Town of Barnstable. Time: 8:00 p.m. to 10:00 p.m. Location: Dunbar Point/Kalmus Beach, Barnstable, MA 41°38′30″N, 070°16′W (NAD 1983).
Massachusetts:		
7.21	July 4th	Name: Beverly Farms Fireworks. Sponsor: Farms-Pride 4th-of-July Committee, Inc. Time: 8:00 p.m. to 10:00 p.m. Location: West Beach, Manchester Bay, Beverly Farms, MA. 42°33′51″N, 070°48′29″W (NAD 1983).
Massachusetts:		
7.22	July 4th	Name: Edgartown Fireworks. Sponsor: Edgartown Firefighters Association. Time: 9:00 p.m. to 10:00 p.m. Location: Edgartown Harbor, Edgartown, MA 41°23′25″N, 070°29′45″W (NAD 1983).
Massachusetts:		
7.23	July 4th	Name: Falmouth Fireworks. Sponsor: Falmouth Fireworks Committee. Time: 9:00 p.m. to 10:00 p.m. Location: Falmouth Harbor, 0.25 NM east of buoy #16, Falmouth, MA 41°–23′12″N, 070°29′45″W (NAD 1983).
Massachusetts:		
7.24	July 4th	Name: Marion Fireworks. Sponsor: Town of Marion Harbormaster. Time: 8:00 p.m. to 10:00 p.m. Location: Silver Shell Beach, Marion, MA 41°45′30″N, 070°45′24″W (NAD 1983).
Massachusetts:		
7.25	July 4th	Name: City of New Bedford Fireworks. Sponsor: City of New Bedford. Time: 9:00 p.m. to 10:30 p.m. Location: New Bedford Harbor, New Bedford, MA 41°41′N, 070°40′W (NAD 1983).
Massachusetts:		
7.26	July 4th	Name: Onset Fireworks. Sponsor: Town of Wareham, MA. Time: 9 p.m. to 10 p.m. Location: Onset Harbor, Onset, MA 41°38′N, 071°55′W (NAD 1983).
Massachusetts:		
7.27	July 4th	Name: Plymouth Fireworks Display. Sponsor: July Four Plymouth Inc. Time: 8 p.m. to 10 p.m. Location: Plymouth Harbor, Plymouth, MA 41°57′20″N, 070°38′20″W (NAD 1983).

FIREWORKS DISPLAY TABLE—Continued

Massachusetts:		
7.28	July 4th	Name: Lewis Bay Fireworks. Sponsor: Town of Yarmouth, MA. Time: 9:30 p.m. to 10:00 p.m. Location: Great Island, Lewis Bay 41°38′30″N, 071°17′06″W (NAD 1983).
Rhode Island:		
7.29	July 4th	Name: Bristol 4th of July Fireworks. Sponsor: Bristol Fourth of July Committee. Time: 9:30 p.m. to 10:00 p.m. Location: Bristol Harbor, Bristol, RI 41°39′54″N, 071°20′18″W (NAD 1983).
Rhode Island:		
7.30	July 4th	Name: City of Newport Fireworks. Sponsor: City of Newport. Time: 9:15 p.m. to 10:00 p.m. Location: 41°28′48″N, 071°20′18″W (NAD 1983).
Rhode Island:		
7.31	July 4th (Rain date: July 5th).	Name: Oyster Harbor Club Fourth-of-July Festival. Sponsor: Oyster Harbor Club, Inc. Time: 6:00 p.m. to 10:00 p.m. Location: Tim's Cove, North Bay, Osterville, RI. 41°37′30″N, 070°23′21″W (NAD 1983).
Rhode Island:		
7.32	July 4th	Name: Slade Farms Fireworks. Sponsor: Slade Farm, Somerset, RI. Time: 9:00 p.m. to 11:00. Location: 41°43′36″N, 071°09′18″W (NAD 1983).
Connecticut:		
7.33	July 4th	Name: Fairfield Aerial Fireworks. Sponsor: Fairfield Park Commission. Time: 8:00 p.m. to 10:00 p.m. Location: Jennings Beach, Long Island Sound, Fairfield, CT 41°08′22″N, 073°14′02″W.
Connecticut:		
7.34	July 4th	Name: Subfest Fireworks. Sponsor: U.S. Naval Submarine Base. Time: 8:00 p.m. to 10:00 p.m. Location: Thames River, Groton, CT.
Connecticut:		
7.35	July 4th	Name: Hartford Riverfest. Sponsor: July 4th Riverfest, Inc. Time: 8:00 p.m. to 10:00 p.m. Location: Connecticut River, Hartford, CT.
Connecticut:		
7.36	July 4th	Name: Middletown Fireworks. Sponsor: City of Middletown. Time: 8:00 p.m. to 10:00 p.m Location: Connecticut River, Middletown, CT.
Connecticut:		
7.37	July 4th	Name: Norwich American Warf Fireworks. Sponsor: American Warf Marina. Time: 8:00 p.m. to 10:00 p.m. Location: Norwich Harbor, Norwich, CT.
Connecticut:		
7.38	July 4th	Name: City of Norwalk Fireworks. Sponsor: Norwalk Recreation and Parks Department. Time: 9:15 p.m. to 10:15 p.m. Location: Calf Pasture Beach, Long Island Sound, Norwalk, CT. 41°04′50″N, 073°23′22″W (NAD 1983).
Connecticut:		
7.39	July 4th	Name: Old Lyme Fireworks. Sponsor: Mr. James R. Rice. Time: 8:00 p.m. to 10:00 p.m. Location: Sound View Beach, Long Island sound, Old Lyme, CT.
Connecticut:		
7.40	July 4th	Name: Stratford Fireworks. Sponsor: Town of Stratford. Time: 8:00 p.m. to 10:00 p.m. Location: Short Beach, Stratford, CT 41°10′11″N, 073°06′19″W (NAD 1983).
Connecticut:		
7.41	July 4th	Name: Westport P.A.L. Fireworks. Sponsor: Westport Police Athletic League. Time: 8:00 p.m. to 10:00 p.m. Location: Compo Beach, Westport, CT.

FIREWORKS DISPLAY TABLE—Continued

New York: 7.42	July 4th	Name: Bayville Crescent Club Fireworks. Sponsor: Bayville Crescent Club, Bayville, NY. Time: 8:00 p.m. to 10:00 p.m. Location: Cooper Bluff, Cove Neck, NY.
New York: 7.43	July 4th	Name: Montuak Independence Day. Sponsor: Montauk Chamber of Commerce. Time: 8:00 p.m. to 10:00 p.m. Location: Montauk Town Beach, Montauk, NY.
New York: 7.44	July 4th	Name: Jones Beach State Park Fireworks. Sponsor: Long Island State Park Administration Headquarters. Time: 9:00 p.m. to 10:15 p.m. Location: Fishing Pier, Jones Beach State Park, Wantagh, NY 40°35′7″N, 073°30′6″W (NAD 1983).
New York: 7.45	July 4th	Name: Dolan Family Fireworks. Sponsor: Mr. Charles F. Dolan. Time: 8:00 p.m. to 10:00 p.m. Location: Cove Point, Oyster Bay, NY.
New York: 7.46	July 4th	Name: City of Yonkers. Sponsor: City of Yonkers, NY. Time: 8:30 p.m. to 10:30 p.m. Location: Hudson River, a barge approximately 335 yards northwest of Yonkers Municipal Pier. 40°56′14″N, 073°54′28″W (NAD 1983).
Massachusetts: 7.47	July 5th	Name: Wellfleet Fireworks. Sponsor: Wellfleet Fireworks Committee. Time: 8:00 p.m. to 11:00 p.m. Location: Indian Neck Jetty, Wellfleet, MA 41°55′24″N, 070°02′06″W (NAD 1983).
Connecticut: 7.48	Weekend following July 4th.	Name: Thames River Fireworks. Sponsor: Town of Groton. Time: 8:00 p.m. to 10:00 p.m. Location: Thames River, off Electric Boat, Groton, CT.
New York: 7.49	A night during the second or third weekend in July.	Name: Boys Harbor Fireworks Extravaganza. Sponsor: Boys Harbor Inc. Time: 9:00 p.m. to 10 p.m. Location: Three Mile Harbor, East Hampton, NY 41°15′N, 070°11′91″W (NAD 1983).
Maine: 7.50	Third Saturday in July	Name: Belfast Fireworks. Sponsor: Belfast Bay Festival Committee. Time: 8:00 p.m. to 10:00 p.m. Location: Belfast Bay, ME.
	August	
New York: 8.1	Each Tuesday in August	Name: State Island Summer. Sponsor: Borough of Staten Island. Time: 8:30 p.m. to 10:30 p.m. Location: New York Harbor, Lower Bay—approximately 350 yards east of South Beach, Staten Island 40°35′11″N, 074°03′42″W (NAD 1983).
New York: 8.2	First Tuesday in August	Name: National Nigh Out Against Crime. Sponsor: National Night Out Against Crime. Time: 8:30 p.m. to 10:30 p.m. Location: Atlantic Ocean, a barge approximately 335 yards off Rockaway Beach at 116th Street. 40°34′29″N, 073°50′00″W (NAD 1983).
Connecticut: 8.3	A night during the first week of August.	Name: Summer Music Fireworks. Sponsor: Summer Music Inc. Time: 8:00 p.m. to 10:00 p.m. Location: Niantic River, Harkness Park, Waterford, CT.
Massachusetts: 8.4	A night during the first weekend in August.	Name: Fall River Celebrates America Fireworks. Sponsor: Fall River Chamber of Commerce. Time: 9:15 p.m. to 10:00 p.m. Location: Taunton River, vicinity of buoy #17, Fall River, MA 41°43′4″N, 071°09′48″W (NAD 1983).

FIREWORKS DISPLAY TABLE—Continued

New York:		
8.5	First Saturday in August	Name: Peekskill Summerfest. Sponsor: Charles Point Business Association. Time: 8:30 p.m. to 10:30 p.m. Location: Hudson River, Peekskill Bay, a barge approximately 500 yards northeast of Peekskill Bay South Channel Buoy 3 (LLNR 37955). 41°17′16″N, 073°56′18″W (NAD 1983).
New York:		
8.6	First and second Saturdays in August.	Name: City of Rensselaer. Sponsor: City of Rensselaer. Time: 9:00 p.m. to 11:00 p.m. Location: Hudson River, a barge approximately 500 yards south of the Dunn Memorial Bridge (river mile 145.4). 42°38′23″N, 073°45′00″W (NAD 1983).
Connecticut:		
8.7	A night during the first two weeks in August.	Name: Hartford Riverfront Regatta. Sponsor: Riverfront Recapture Inc. Time: 8:00 p.m. to 10:00 p.m. Location: Connecticut River, Hartford, CT.
Connecticut:		
8.8	A night during the third week in August.	Name: Summer Music Fireworks. Sponsor: Summer Music Inc. Time: 8:00 p.m. to 10:00 p.m. Location: Niantic River, Harkness Park, Waterford, CT.
Massachusetts:		
8.9	Last weekend in August	Name: Oaks Bluff Fireworks. Sponsor: Oaks Bluff Firemen's Civic Association. Time: 8:00 p.m. to 10:00 p.m. Location: Oaks Bluff Beach, Oaks Bluff, MA.
Connecticut:		
8.10	Last Sunday in August ..	Name: Norwich Harbor Day Fireworks. Sponsor: Harbor Day Committee. Time: 8:00 p.m. to 10:00 p.m. Location: Norwich Harbor, off American Wharf Marina, Norwich, CT.
Massachusetts:		
8.11	A night during Labor Day weekend.	Name: Gloucester Fireworks. Sponsor: Gloucester Chamber of Commerce. Time: 8:00 p.m. to 10:00 p.m. Location: Gloucester Harbor, Stage Fort Park, Gloucester, MA.
Maine:		
8.12	A night during Labor Day weekend.	Name: Camden Fireworks Display. Sponsor: Town of Camden Chamber of Commerce. Time: 8:00 p.m. to 10:00 p.m. Location: Camden Harbor, Camden, ME.
	September	
Massachusetts:		
9.1	A night during Labor Day weekend.	Name: Gloucester Fireworks. Sponsor: Gloucester Chamber of Commerce. Time: 8:00 p.m. to 10:00 p.m. Location: Gloucester Harbor, Stage Fort Park, Gloucester, MA.
Maine:		
9.2	A night during Labor Day weekend.	Name: Camden Fireworks Display. Sponsor: Town of Camden Chamber of Commerce. Time: 8:00 p.m. to 10:00 p.m. Location: Camden Harbor, Camden, ME.
New York:		
9.3	Labor Day	Name: South Street Seaport Labor Day. Sponsor: South Street Seaport Marketplace. Time: 8:30 p.m. to 10:00 p.m. Location: East River, Manhattan, a barge approximately 475 yards south of the Brooklyn Bridge. 40°42′10″N, 074°00′01″W (NAD 1983).
New York:		
9.4	First Saturday following Labor Day.	Name: Grand Fiesta Italiana. Sponsor: Sons of Italy, Port Washington, NY. Time: 8:30 p.m. to 11:00 p.m. Location: Hempstead Harbor, a barge approximately 300 yards north of Bar Beach, Port Washington, Long Island. 40°49′52″N, 073°39′10″W (NAD 1983).
Connecticut:		
9.5	A night during the weekend following Labor Day.	Name: Taste of Italy. Sponsor: Italian Heritage Committee. Time: 8:00 p.m. to 10:00 p.m. Location: Norwich Harbor, off Norwich Marina, Norwich, CT.

FIREWORKS DISPLAY TABLE—Continued

Rhode Island:		
9.6	A night during the First weekend in September.	Name: Newport Salute to Summer. Sponsor: Naval Education and Training Center. Time: 8:30 p.m. to 10:00 p.m. Location: Narragansett Bay, East Passage, off Coasters Harbor Island, Newport, RI 41°25′N, 071° 20′W (NAD 1983).
Connecticut:		
9.7	First or second Saturday in September.	Name: Norwalk Oyster Festival Fireworks. Sponsor: Norwalk Seaport Association. Time: 8:00 p.m. to 10:00 p.m. Location: Norwalk Harbor, Norwalk. CT.
New York:		
9.8	A night during the last two weekends in September.	Name: Cow Harbor Day Fireworks. Sponsor: Village of Northport Harbor. Time: 8:00 p.m. to 10:00 p.m. Location: Sand Pit, Northport Harbor, Northport, NY.
	October	
New York:		
10.1	First Sunday in October	Name: Deepavali Festival. Sponsor: Association of Indians in America Time: 6:45 to 8:45 Location: East River, Manhattan, a barge approximately 200 yards east of Pier 16. 40°42′12.5″N, 074°00′02″W (NAD 1983).
Massachusetts:		
10.2	A night during the second weekend of October.	Name: Yarmouth Seaside Festival Fireworks. Sponsor: Yarmouth Seaside Festival. Time: 8:00 p.m. to 9:00 p.m. Location: Seagull Beach, W. Yarmouth, MA 41°38′06″N, 070°13′13″W (NAD 1983).
	December	
Massachusetts:		
12.1	December 31st	Name: First Night Fireworks. Sponsor: First Night Inc. Time: 11:45 p.m. to 12:30 a.m. Location: Center of Boston Inner Harbor, Boston, MA 42°21′42.4″N, 071°02′36.5″W (NAD 1983).
Massachusetts:		
12.2	December 31st	Name: First Night Martha's Vineyard. Sponsor: Town of Martha's Vineyard Chamber of Commerce. Time: 10:00 p.m. to 12:30 a.m. Location: Vineyard Haven Harbor, Martha's Vineyard, MA 41°27′6″N, 070°35′8″W (NAD 1983).
Massachusetts:		
12.3	December 31st	Name: City of New Bedford First Night. Sponsor: City of New Bedford. Time: 11:45 p.m. to 12:30 a.m. Location: New Bedford Harbor, New Bedford, MA 41°38′.2″N, 070°55′0″W (NAD 1983).
Connecticut:		
12.4	December 31st	Name: First Night Mystic. Sponsor: Mystic Community Center. Time: 11:45 p.m. to 12:30 a.m. Location: Mystic River, Mystic, CT.
New York:		
12.5	December 31st	Name: South Street Seaport New Year's Eve. Sponsor: South Street Seaport Marketplace. Time: 11:00 p.m. to 1:00 a.m. Location: East River, Manhattan, a barge approximately 475 yards south of the Brooklyn Bridge. 40°42′10″N, 074°00′01″W (NAD 1983).
New York:		
12.6	December 31st	Name: First Night New York City. Sponsor: Grant Central Partnership. Time: 11:00 p.m. to 1:00 a.m. Location: Hudson River, Manhattan, a barge approximately 450 yards southwest of the entrance to North Cove Yacht Harbor. 40°42′39″N, 074°01′19″W (NAD 1983).
Rhode Island:		
12.7	December 31st	Name: Newport Fireworks. Sponsor: Newport Cultural Commission. Time: 11:00 p.m. to 1:00 a.m. Location: 41°28′48″N, 071°20′18″W (NAD 1983).

(b) Special local regulations. (1) No person or vessel may enter, transit, or remain within the regulated area during the effective period of regulation unless authorized by the Coast Guard patrol commander.

(2) Vessels encountering emergencies that require transit through the regulated area should call the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with a Coast Guard-designated escort.

(3) All persons and vessels shall comply with the instructions of the Coast Guard on-scene patrol commander. On-scene patrol personnel may be commissioned, warrant, or petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary may also be present to inform vessel operators of this regulation and other applicable laws.

(c) Effective dates. This section is in effect from one hour before the scheduled start of each event listed in the table until thirty minutes after the scheduled finish of each event listed in the Table. For those events listed without specific times or dates, an annual **Federal Register** document will be published indicating event dates and times.

Dated: March 31, 1999.

R.M. Larrabee,

Real Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 99–9433 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–115, RM–9378]

Radio Broadcasting Services; Clio and Tuscola, Michigan

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Faircom Flint Inc. requesting the reallotment of Channel 268A from Tuscola, Michigan, to Clio, Michigan, and modification of the license for Station WWBN to specify Clio, Michigan, as the community of license. The coordinates for Channel 268A at Clio are 43–15–47 and 83–45–40. Canadian concurrence will be requested for the allotment of Channel 268A at Clio. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 268A at Clio.

DATES: Comments must be filed on or before June 1, 1999, and reply comments on or before June 16, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lee W. Shubert, Haley Bader & Potts P.L.C., 4350 North Fairfax Drive, Suite 900, Arlington, VA 22203–1633.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–115, adopted March 31, 1999, and released April 9, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–9387 Filed 4–14–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF36, 1018–AF37

Endangered and Threatened Wildlife and Plants; Reopening of Comment Periods and Notice of Availability of Draft Economic Analyses on Proposed Critical Habitat Determinations for the Cactus Ferruginous Pygmy-Owl and the Huachuca Water Umbel, a Plant

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment periods and notice of availability of draft economic analyses.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability of draft economic analyses of the proposed designation of critical habitat for the plant *Lilaeopsis schaffneriana* ssp. *recurva* (Huachuca water umbel) and the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*). We also provide notice of the reopening of the comment periods for the two proposals to allow all interested parties to submit written comments on the proposals and on the draft economic analyses. We have received some comments on the proposals after the close of the original comment periods. Those comments will be incorporated into the public records as a part of these reopenings and do not need to be resubmitted.

DATES: The original comment periods for both critical habitat proposals closed on March 1, 1999. The comment periods are reopened and we will accept comments until May 15, 1999. Comments must be received by the closing date. Any comments that are received after the closing date may not be considered in the final decisions on these proposals.

ADDRESSES: Copies of the draft economic analyses are available on the Internet at http://ifw2irm2.irm1.r2.fws.gov/ or by writing to the Field Supervisor, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021. Written comments should be sent to the Field Supervisor. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Service address.

FOR FURTHER INFORMATION CONTACT: Tom Gatz, Endangered Species Coordinator, at the above address (telephone 602–640–2720 ext. 240; facsimile 602–640–2730).

SUPPLEMENTARY INFORMATION:

Background

The cactus ferruginous pygmy-owl is one of four subspecies of the ferruginous pygmy-owl. It occurs from lowland central Arizona south through western Mexico to the States of Colima and Michoacan, and from southern Texas south through the Mexican States of Tamaulipas and Nuevo Leon. Only the Arizona population of the cactus ferruginous pygmy-owl is listed as an endangered species. We proposed designation of approximately 730,565 acres of riverine riparian and upland habitat as critical habitat for the cactus ferruginous pygmy-owl pursuant to the Endangered Species Act of 1973, as amended (Act). Proposed critical habitat is in Pima, Cochise, Pinal, and Maricopa counties, Arizona as described in the proposed rule (63 FR 71820; December 30, 1999).

The Huachuca water umbel is a plant found in cienegas (desert marshes), streams and springs in southern Arizona and northern Sonora, Mexico, typically in mid-elevation wetland communities often surrounded by relatively arid environments. These communities are usually associated with perennial springs and stream headwaters, have permanently or seasonally saturated highly organic soils, and have a low probability of flooding or scouring. We proposed critical habitat including a total of 83.9 km (52.1 mi) of streams or rivers in Cochise and Santa Cruz counties, Arizona (63 FR 71838; December 30, 1999).

Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific data available and after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposals to designate critical habitat for the Huachuca water umbel and the cactus ferruginous pygmy-owl and comments received during previous comment periods, we have conducted a draft economic analysis of each proposed critical habitat designation. The draft economic analyses are available at the above Internet and mailing addresses. In order to accept the best and most current scientific data regarding the critical habitat proposals and the draft economic analyses of the proposals, we reopen the comment periods at this time.

The Fish and Wildlife Service has previously conducted and recorded three public hearings on these critical habitat designation proposals as required under Section 4(b)(5)(E) of the Act, as amended (16 U.S.C. 1531 *et seq.*). Due to the expeditious treatment of these proposed critical habitat determinations under Federal District Court order as described in the proposed rules, we will not conduct additional hearings and will accept only written comments during these reopened comment periods. Previously submitted oral or written comments on either of these critical habitat proposals need not be resubmitted.

The current comment period on this proposal closes on May 15, 1999. Written comments may be submitted to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Jeffrey A. Humphrey (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531–1544).

Dated: April 7, 1999.

Charlie Sanchez Jr.,

Acting Regional Director, Region 2, Fish and Wildlife Service.

[FR Doc. 99–9153 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 64, No. 72

Thursday, April 15, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Long Prong Project, Boise National Forest, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare Environmental Impact Statement

SUMMARY: The Cascade Ranger District of the Boise National Forest will prepare an environmental impact statement (EIS) for an integrated resource management project in the headwaters of Clear Creek, a tributary of the North Fork Payette River below Cascade Reservoir. The project area is located 10 miles east of Cascade, Idaho, and about 100 miles north of Boise, Idaho.

The agency invites written comments and suggestions on the scope of the analysis. The agency also hereby gives notice of the environmental analysis and decision-making process that will occur on the proposal so interested and affected people are aware of how they may participate and contribute to the final decision. At this time, no public meetings to discuss the project are planned.

Proposed Action: Five primary objectives have been identified for the project: (1) Improve timber stand health so that stands are more resilient to damaging forest insects and diseases, and uncharacteristic wildfires; (2) improve long-term stand growth to or near levels indicative of sustainable forest; (3) provide wood products to support local economies and stumpage receipts sufficient to yield a significant positive return to the U.S. Treasury and trust funds; (4) reduce management-induced sediment by closing and/or rehabilitating roads that are not needed for long-term resource management, and: (5) where consistent with other project objectives, pursue opportunities to enhance aspen stands.

The Proposed Action would treat a total of 2,203 acres in the 67.637-acre Gold Fork/Clear Creek Management Area (MA 53). An estimated 13.0 MMBF of timber would be harvested using ground-based (857 acres), skyline (495 acres), and helicopter (851 acres) yarding systems. The Proposed Action would employ a variety of silvicultural prescriptions including clearcut with reserve trees (389 acres), commercial thin/sanitation (833 acres), final removal shelterwood (90 acres), sanitation/improvement (490 acres), seed cut shelterwood (110 acres), and commercial thin/final removal (291 acres). The existing transportation system would be improved to facilitate log haul and reduce sedimentation with individual sections of 2.6 miles of road being reconstructed. An estimated 1.4 miles of specified road and 0.4 mile of temporary road would be constructed to facilitate harvest. In addition, 1.6 miles of road not needed for the long-term management of the area would be decommissioned and 1.5 miles closed year-round to motorized use with the exception of snowmobiles.

Three 30-acre units would be treated to enhance aspen regeneration. All competing coniferous trees less than 20 inches in diameter would be cut down and the areas burned with a helitorch. Mature aspen may also need to be felled to create sufficient fuels to sustain the burn. No construction of fireline would be necessary on these sites.

Prescribed fire would be used on an area roughly 750 acres in size to reduce natural fuels, with a secondary objective of enhancing aspen rejuvenation. No construction of fireline would be necessary on this site.

Preliminary Issues: Preliminary concerns with the proposed action include: (1) potential loss of pileated woodpecker and boreal owl nesting habitat; (2) possible degradation of fisheries habitat, particularly in the East Fork of Clear Creek; (3) adverse impacts on recreational access, and; (4) impacts on the visual quality of the area.

Possible Alternatives to the Proposed Action: Three alternatives to the proposed action have been discussed thus far: (1) a no action alternative; (2) an alternative to mitigate potential impacts on pileated woodpecker and boreal owl nesting habitat, and; (3) an alternative that would mitigate increases in sediment delivery to the East Fork of Clear Creek. Other alternatives may be developed as issues are identified and information received.

Decisions to be Made: The Boise National Forest Supervisor will decide the following: Should roads be built and timber harvested within the Long Prong Project Area at this time, and if so; where within the project area, and how many miles of road should be built; and which stands should be treated and what silvicultural systems should be used? What mitigation/watershed enhancement measures should be applied to the project? Should the decommissioning of portions of roads 405B and 405B2 and/or other existing roads be implemented at this time? Should prescribed fire be used in the project area at this time, and if so; where within the project area? Should aspen rejuvenation treatments be implemented in the project area at this time, and if so; where within the project area?

DATES: Written comments concerning the proposed project and analysis are encouraged and should be postmarked on or before May 17, 1999.

ADDRESSES: Comments should be addressed to Steve Patterson, Cascade Ranger District, P.O. Box 696, Cascade, ID 83611. Comments received in response to this request will be available for public inspection and will be released in their entirety if requested pursuant to the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Further information can be obtained from Steve Patterson at the address mentioned above or by calling 208–382–7430.

Schedule: Draft Environmental Impact Statement (DEIS), June 1999, Final Environmental Impact Statement, August 1999.

SUPPLEMENTARY INFORMATION: A similar proposed action was scoped in November 1998 with the intention of preparing an environmental assessment (EA). In addition to public announcements in the ''The Idaho Statesman'' (November 21, 1998) and the ''The Long Valley Advocate'' (November 25, 1998), a scoping package describing the proposed action was mailed to 34 individuals and/or groups. In response to those scoping efforts, written comments were received from 10 interested parties. Comments received from those efforts will be incorporated into this analysis.

The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the DEIS stage but are not raised until after completion of the FEIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F. 2d 1016, 1002 (9th Cir., 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the DEIS 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official

David D. Rittenhouse, Forest Supervisor, Boise National Forest, 1249 South Vinnel Way, Boise, ID 83709.

Dated: April 7, 1999.

David D. Rittenhouse,

Forest Supervisor.

[FR Doc. 99–9385 Filed 4–14–99; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Michigan Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Thursday, May 6, 1999, at the Marriott Hotel, Renaissance Center, Renaissance Drive off East Jefferson, Detroit, Michigan 48243. The purpose of the meeting is to discuss civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Roland Hwang, 517–373–1476, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 5, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–9418 Filed 4–14–99; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 4:30 p.m. on May 6, 1999, at the Nashua Senior High School Auditorium, 36 Riverside Drive, Nashua, New Hampshire 03062. The purpose of the meeting is to hold a consultation on civil rights in police/community relations and equal educational opportunities in public schools as part of its project, *A Biennial Report on the Status of Civil Rights in New Hampshire*.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Acting Chairperson Patricia Taylor, 603–883–5813, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 8, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–9420 Filed 4–14–99; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Utah Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on Wednesday, May 19, 1999, at the Ogden Park Hotel, 247 24th Street, Ogden, Utah. The purpose of the meeting is to brief members on regional and commission activities, statewide issues, and the Wiesenthal Conference.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 8, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–9419 Filed 4–14–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Miscellaneous Activities

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 14, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230 (or via Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, Department of Commerce, Room 6881, 14th and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

On September 30, 1993, the Secretary of Commerce submitted to the Congress a report of the Trade Promotion Coordinating Committee, entitled Toward a National Export Strategy. The report included the goal to ''Undertake a comprehensive review of the Export Administration Regulations to simplify, clarify, and make the regulations more user-friendly''.

To carry out this recommendation, BXA has rewritten the entire EAR. To the extent activities have been added or changed but not deleted, this collection represents the authority to collect, on rare occasions, certain information from the public. This assembly of information collection activities is comprised of two activities. ''Registration Of U.S. Agricultural Commodities For Exemption From Short Supply Limitations On Export'', and ''Petitions For The Imposition Of Monitoring Or Controls On Recyclable Metallic materials; Public Hearings'' and though statutory in nature and—have never been applied—must remain a part of BXA's information collection budget authorization.

For the purpose of clarity, this abstract will refer to the two activities as follows:

USAG will refer to Registration Of U.S. Agricultural Commodities For Exemption From Short Supply Limitations On Export activities; and,

Petitions will refer to Petitions For The Imposition Of Monitoring Or Controls On Recyclable Metallic materials; Public Hearings activities.

II. Method of Collection

For USAG, the method is a written application for the exemption from Short Supply Limitations on Export Activities.

For Petitions, the method is a written petition requesting the monitoring of exports or the imposition of export controls, or both, with respect to certain materials.

The same mailing address is used for both submissions: P.O. Box 273, Washington, DC 20230.

III. Data

OMB Number: 0694–0102.

Form Number: None.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 2.

Estimated Time Per Response: 5 hours per response.

Estimated Total Annual Burden Hours: 10.

Estimated Total Annual Cost: No capital expenditures are required.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: April 9, 1999.

Linda Engelmeier,

Departmental Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–9437 Filed 4–14–99; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with § 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than the last day of April 1999, interested parties may request an administrative review of the following orders, findings, or suspended investigations, with anniversary dates in April for the following periods:

	Period
Antidumping Duty Proceedings	
Canada: Sugar & Syrup, A–122–085	04/01/98–03/31/99
France: Sorbitol, A–427–001	04/01/98–03/31/99
Greece: Electrolytic Manganese Dioxide, A–484–801	04/01/98–03/31/99
Japan:	
Roller Chain Other Than Bicycle, A–588–028	04/01/98–03/31/99
Calcium Hypochlorite, A–588–401	04/01/98–03/31/99
3.5″ Microdisks And Media Therefor, A–588–802	04/01/98–03/31/99
Electrolytic Manganese Dioxide, A–588–806	04/01/98–03/31/99
Kazakhstan: Ferrosilicon, A–834–804	04/01/98–03/31/99
Kenya: Fresh Cut Flowers, A–779–602	04/01/98–03/31/99

	Period
Mexico: Fresh Cut Flowers, A–201–601	04/01/98–03/31/99
Norway: Fresh & Chilled Atlantic Salmon, A–403–801	04/01/98–03/31/99
People's Republic of China: Brake Rotors, A–570–846	04/01/98–03/31/99
South Korea: Color Television Receivers, A–580–008	04/01/98–03/31/99
Taiwan:	
Color Television Receivers, A–583–009	04/01/98–03/31/99
Static Random Access Memory, A–583–827	10/01/97–03/31/99
Turkey: Certain Steel Concrete Reinforcing Bars, A–489–807	04/01/98–03/31/99
Ukraine: Ferrosilicon, A–823–804	04/01/98–03/31/99
Countervailing Duty Proceedings	
Norway: Fresh & Chilled Atlantic Salmon, C–403–802	04/01/98–03/31/99
Peru: Fresh Cut Flowers, C–333–601	04/01/98–03/31/99
Suspension Agreements	
None.	

In accordance with section 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an adminsitrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295, 27494 (May 19, 1997)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Shelia Forbes, in room 3065 of the main Commerce Building. Further, in accordance with § 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation for requests received by the last day of April 1999. If the Department does not receive, by the last day of April 1999, a reuqest for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period indentified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 9, 1999.

Bernard T. Carreau,

Deputy Assistant Secretary for Group II, AD/CVD Enforcement.

[FR Doc. 99–9448 Filed 4–14–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India; Initiation of Antidumping New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping New Shipper Review.

SUMMARY: The Department of Commerce has received a request to conduct a new shipper review of the antidumping duty order on stainless steel bar from India. In accordance with section 751(a)(2)(B) of the Tariff Act and 19 CFR 351.214(d), we are initiating this review.

EFFECTIVE DATE: April 15, 1999.

FOR FURTHER INFORMATION CONTACT: Zak Smith or Stephanie Hoffman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0189 or (202) 482–4198, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, all references to the Department of Commerce's (''the Department's'') regulations are to 19 CFR part 351 (April 1998).

SUPPLEMENTARY INFORMATION:

Background

On February 26, 1999, the Department received a request from Meltroll Engineering Pvt., Ltd. (''Meltroll''), pursuant to section 751(a)(2)(B) of the Act, and in accordance with 19 CFR 351.214(b), for a new shipper review of the antidumping duty order on stainless steel bar from India. This order has a February anniversary month. Accordingly, we are initiating a new shipper review for Meltroll as requested and the period of review is February 1, 1998 through January 31, 1999.

Initiation of Review

In accordance with 19 CFR 351.214(b)(2), Meltroll provided certification that it did not export subject merchandise to the United

States during the period of investigation; certification that, since the investigation was initiated, it has never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the period of investigation, including those not individually examined during the investigation; documentation establishing: (i) The date on which its stainless steel bar was first entered, or withdrawn from warehouse, for consumption, or if the exporter or producer could not establish the date of first entry, the date on which it first shipped the subject merchandise for export to the United States; (ii) the volume of that and subsequent shipments; and (iii) the date of the first sale to an unaffiliated customer in the United States. Therefore, in accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating a new shipper review of the antidumping duty order on stainless steel bar from India. Meltroll agreed to waive the time limits of 19 CFR 351.214(i), in order that the Department may conduct this review concurrent with the administrative review of this order for the period February 1, 1998 through January 31, 1999, as requested pursuant to section 751(a) of the Act and 19 CFR 351.214(j)(3). Therefore, we intend to issue the final results of this review not later than 365 days after the last day of the anniversary month. All other provisions of 19 CFR 351.214 will apply to Meltroll throughout the duration of this new shipper review.

We will instruct the Customs Service to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit, until the completion of the review, for each entry of the merchandise exported by the above listed company, in accordance with 19 CFR 351.214(e). Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306.

This initiation and this notice are in accordance with section 751(a) of the Act.

Dated: March 31, 1999.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–9447 Filed 4–14–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 99–00001.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Jacques Issac d/b/a C-Shore International (''C-Shore''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (l997). The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305 (a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

All products.

2. Services

All services.

3. Technology Rights

Technology Rights, including, but not limited to, patents, trademarks, copyrights and trade secrets that relate to Products and Services.

4. Export Trade Facilitation Services (as they Relate to the Export of Products, Services and Technology Rights)

Export Trade Facilitation Services, including, but not limited to: professional services in the areas of government relations and assistance with state and federal export programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping and export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; bonding; warehousing; export trade promotion; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation; and facilitating the formation of shippers' associations.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

C-Shore may:

1. Provide and/or arrange for the provision of Export Trade Facilitation Services;

2. Engage in promotion and marketing activities and collect and distribute information on trade opportunities in the Export Markets;

3. Enter into exclusive and/or non-exclusive agreements with distributors, foreign buyers, and/or sales representatives in Export Markets;

4. Enter into exclusive or non-exclusive sales agreements with Suppliers, Export Intermediaries, or other persons for the sale of Products and Services;

5. Enter into exclusive or non-exclusive licensing agreements with Suppliers, Export Intermediaries, or other persons for licensing Technology Rights in Export Markets;

6. Allocate export orders among suppliers;

7. Allocate the sales, export orders and/or divide Export Markets, among Suppliers, Export Intermediaries, or other persons for the sale of Products and Services;

8. Allocate the licensing of Technology Rights among Suppliers, Export Intermediaries, or other persons;

9. Establish the price of Products and Services for sale in Export Markets;

10. Establish the fee for licensing of Technology Rights in Export Markets; and

11. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights.

Terms and Conditions of Certificate

l. In engaging in Export Trade Activities and Methods of Operation, C–Shore will not intentionally disclose, directly or indirectly, to any Supplier any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

2. C–Shore will comply with requests made by the Secretary of Commerce on behalf of the Secretary of Commerce or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities, and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

Definitions

1. ''Export Intermediary'' means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. ''Supplier'' means a person who produces, provides, or sells a Product and/or Service.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, l4th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: April 8, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99–9436 Filed 4–14–99; 8:45 am]

BILLING CODE 3510–DR–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Visa and Certification Requirements for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in El Salvador

April 8, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa and certification requirements.

EFFECTIVE DATE: April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The limit for textile products in Categories 342/642, produced or manufactured in El Salvador, expired on March 28, 1999; therefore, textile products in these categories, produced or manufactured in El Salvador and exported on or after March 29, 1999, will no longer require a visa and will no longer qualify for Special Access Program treatment. In the letter published below, the Chairman of CITA directs the Commissioner of Customs to no longer require visas for these products.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 60 FR 2740, published on January 11, 1995.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 8, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 6, 1995, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton and man-made fiber textile products, produced or manufactured in El Salvador which were not properly visaed by the Government of El Salvador.

Effective on April 9, 1999, you are directed to amend the current visa requirements for textiles and textile products in Categories 342/642, produced or manufactured in El Salvador, to no longer require visas for these products exported on or after March 29, 1999. In addition, products in these categories from El Salvador will no longer qualify for Special Access Program treatment.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–9343 Filed 4–14–99; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

TIME AND DATE: 2:00 p.m., Friday, April 23, 1999.

LOCATION: Room 410, East West Towers, 4300 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

Matter to be Considered:

Compliance Status Report: The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: April 12, 1999.

Sadye E. Dunn,

Secretary.

[FR Doc. 99–9604 Filed 4–13–99; 2:27 pm]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Invitation to the Public To Participate in a Working Group To Ensure Input From Indian Tribal Governments in Development of Corporation Policies

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (Corporation) invites elected officials and other representatives of Indian tribal governments to participate in a working group to facilitate input in the development of Corporation policies that significantly or uniquely affect Indian tribal governments and their communities.

ADDRESSES: Responses may be mailed to the Corporation at the following address: Corporation for National Service, Attn: Cynthia Johnson, 1201

New York Avenue NW, Washington, DC 20525 or by sending electronic mail to: cljohnso@cns.gov.

FOR FURTHER INFORMATION CONTACT: Cynthia Johnson, (202) 606–5000, ext. 541. TDD (202) 565–2799. For individuals with disabilities, information will be made available in alternative formats upon request.

SUPPLEMENTARY INFORMATION: The Corporation is a government corporation that engages Americans of all ages and backgrounds in community-based service, including through AmeriCorps. This service addresses the nation's education, public safety, human, and environmental needs to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility and strengthens the ties that bind us together as a people.

In light of Executive Order 13084, the Corporation seeks to provide an effective mechanism through which elected officials and other representatives of Indian tribal governments may contribute meaningful and timely input in the development of Corporation policies that significantly or uniquely affect their communities. Individuals interested in participating in a working group for this purpose should contact the Corporation as stated above.

Dated: April 9, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–9358 Filed 4–14–99; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0054]

Submission for OMB Review; Comment Request Entitled U.S.-Flag Air Carriers Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning U.S.-Flag Air Carriers Certification. A request for public comments was published at 64 FR 6054, February 8, 1999. No comments were received.

DATES: Comments may be submitted on or before May 17, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag carrier is available to provide such services. In the event that the contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the contractor shall include a certification on vouchers involving such transportation. The contracting officer uses the information furnished in the certification to determine whether adequate justification exists for the contractor's use of other than a U.S.-flag air carrier.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *150;* responses per respondent, *2;* total annual responses, *300;* preparation hours per response, *.25;* and total response burden hours, *75.*

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0054, U.S. -Flag Air Carriers Certification, in all correspondence.

Dated: April 12, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–9400 Filed 4–14–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0053]

Proposed Collection; Comment Request Entitled Permits, Authorities, or Franchises Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Permits, Authorities, or Franchises Certification. The clearnace currently expires on May 31, 1999.

DATES: Comments may be submitted on or before May 17, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC

20405. Please cite OMB Control No. 9000–0053, Permits, Authorities, or Franchises Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

This certification and copies of authorizations are needed to determine that the offeror has obtained all authorizations, permits, etc., required in connection with transporting the material involved. The contracting officer reviews the certification and any documents requested to ensure that the offeror has complied with all regulatory requirements and has obtained any permits, licenses, etc., that are needed.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes for the first completion, *1* minute for subsequent completions, or an average of *5.7* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,106*; responses per respondent, *3*; total annual responses, *3,318*; preparation hours per response, *.094*; and total response burden hours, *312*.

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0053, Permits, Authorities, or Franchises Certification, in all correspondence.

Dated: April 12, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–9401 Filed 4–14–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0055]

Submission for OMB Review; Comment Request Entitled Freight Classification Description

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Freight Classification Description. A request for public comments was published at 64 FR 6053, February 8, 1999. No comments were received.

DATES: Comments may be submitted on or before May 17, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0055, Freight Classification Description, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

When the Government purchases supplies that are new to the supply system, nonstandard, or modifications of previously shipped items, and different freight classifications may apply, offerors are requested to indicate the full Uniform Freight Classification or National Motor Freight Classification. The information is used to determine the proper freight rate for the supplies.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *10* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *2,640*; responses per respondent, *3*; total annual responses, *7,920*; preparation hours per response, *.167*; and total response burden hours, *1,323*.

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0055, Freight Classification Description, in all correspondence.

Dated: April 12, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–9402 Filed 4–14–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0057]

Submission for OMB Review; Comment Request Entitled Evaluation of Export Offers

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Evaluation of Export Offers. A request for public comments was published at 64 FR 6053, February 8, 1999. No comments were received.

DATES: Comments may be submitted on or before May 17, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden should be submitted to: FAR Desk

Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Offers submitted in response to Government solicitations must be evaluated and awards made on the basis of the lowest laid down cost to the Government at the overseas port of discharge, via methods and ports compatible with required delivery dates and conditions affecting transportation known at the time of evaluation. Offers are evaluated on the basis of shipment through the port resulting in the lowest cost to the Government. This provision collects information regarding the vendor's preference for delivery ports. The information is used to evaluate offers and award a contract based on the lowest cost to the Government.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30* minutes for the first completion, *10* minutes for subsequent completions, or an average of *15* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *100*; responses per respondent, *4*; total annual responses, *400*; preparation hours per response, *.25*; and total response burden hours, *100*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0057, Evaluation of Export Offers, in all correspondence.

Dated: April 12, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–9403 Filed 4–14–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0071]

Submission for OMB Review; Comment Request Entitled Price Redetermination

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0071).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Price Redetermination. A request for public comments was published at 64 FR 6056, February 8, 1999. No comments were received.

DATES: Comments may be submitted on or before May 17, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

Please cite OMB Control No. 9000–0071, Price Redetermination, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ralph DeStefano, Federal Acquisition Policy Division, GSA, (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

Fixed-price contracts with prospective price redetermination provide for firm fixed prices for an initial period of the contract with prospective redetermination at stated times during performance. Fixed price contracts with retroactive price redetermination provide for a fixed ceiling price and retroactive price redetermination within the ceiling after completion of the contract. In order for the amounts of price adjustments to be determined, the firms performing under these contracts must provide information to the Government regarding their expenditures and anticipated costs. The information is used to establish fair price adjustments to Federal contracts.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *3,500*; responses per respondent, *2*; total annual responses, *7,000*; preparation hours per response, *1*; and total response burden hours, *7,000*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0071, Price Redetermination, in all correspondence.

Dated: April 12, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–9404 Filed 4–14–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0061]

Submission for OMB Review; Comment Request Entitled Transportation Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement

concerning Transportation Requirements. A request for public comments was published at 64 FR 6054, February 8, 1999. No comments were received.

DATES: Comments may be submitted on or before May 17, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503 and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0061, Transportation Requirements, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR Part 47 and related clauses contain policies and procedures for applying transportation and traffic management considerations in the acquisition of supplies and acquiring transportation or transportation-related services. Generally, contracts involving transportation require information regarding the nature of the supplies, method of shipment, place and time of shipment, applicable charges, marking of shipments, shipping documents and other related items. This information is required to ensure proper and timely shipment of Government supplies.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.23* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *65,000*; responses per respondent, *4.36*; total annual responses, *283,400*; preparation hours per response, *.23*; and total response burden hours, *65,182*.

Obtaining copies of proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0061, Transportation Requirements, in all correspondence.

Dated: April 12, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–9405 Filed 4–14–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0068]

Submission for OMB Review; Comment Request Entitled Economic Price Adjustment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Economic Price Adjustment. A request for public comments was published at 64 FR 6055, February 8, 1999. No comments were received.

DATES: Comments may be submitted on or before May 17, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

Please cite OMB Control No. 9000–0068, Economic Price Adjustment, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ralph DeStefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

A fixed-price contract with economic price adjustment provides for upward and downward revision of the stated contract price upon occurrence of specified contingencies. In order for the contracting officer to be aware of price changes, the firm must provide pertinent information to the Government. The information is used to determine the proper amount of price adjustments required under the contract.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *5,346* responses per respondent, *1*; total annual responses, *5,346* preparation hours per response, *.25*; and total response burden hours, *1,337*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0068, Economic Price Adjustment, in all correspondence.

Dated: April 12, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–9406 Filed 4–14–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy.

U.S. Patent Application Serial No. 08/002,031 entitled ''Method and Apparatus for Modeling Cosmic Ray Effects on Microelectronics'' Navy Case No. 78,824.

Requests for copies of the patent application cited should be directed to the Naval Research Laboratory, Code 3008.2, 4555 Overlook Avenue, S.W., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head,

Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, S.W., Washington, D.C. 20375–5320, telephone (202) 767–7230.

(**Authority:** 35 U.S.C. 207, 37 CFR Part 404).

Dated: April 7, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–9424 Filed 4–14–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The following invention is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent Number 5,858,801 entitled, ''Patterning Antibodies on A Surface''

ADDRESSES: Requests for copies of the patent cited should be directed to Mr. Dick Bloomquist, Director Technology Transfer, Naval Surface Warfare Center Carderock Division, Code 0117, 9500 MacArthur Blvd., West Bethesda, MD 20817–5700.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Bloomquist, Director Technology Transfer, Naval Surface Warfare Center Carderock Division, Code 0117, 9500 MacArthur Blvd., West Bethesda, MD 20817–5700, telephone (301) 227–4299.

Dated: April 7, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–9425 Filed 4–14–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 14, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat__—Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 9, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: Phase 1 of the National Evaluation of Talent Search and Educational Opportunity Centers.

Frequency: One time.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 445.

Burden Hours: 301.

Abstract: The purpose of this evaluation is to provide updated information on the operation and implementation of Talent Search and Educational Opportunity Centers and to examine the feasibility of conducting a study of Talent Search Outcomes and impact on students. The Talent Search Program has the purpose of increasing the number of youth from disadvantaged backgrounds who graduate from high school and enroll in postsecondary institutions. Educational Opportunity Centers have goals and services similar to Talent Search but with a focus on serving an adult population that has left school prior to completion. Clearance is requested for two data collection efforts: (1) a census-survey of all Talent Search Coordinators/Directors, and (2) a census-survey of all EOC Coordinators/Directors.

Office of Student Financial Assistance Programs

Type of Review: Revision.

Title: Student Aid Report (SAR).

Frequency: Annually.

Affected Public: Individuals or households.

Reporting and Recordkeeping Burden:

Responses: 9,848,645.

Burden Hours: 3,775,753.

Abstract: The Student Aid Report (SAR) is used to notify all applicants of their eligibility to receive Federal student aid for postsecondary education. The form is submitted by the applicant to the institution of their choice.

[FR Doc. 99–9373 Filed 4–14–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Golden Field Office; Supplemental Announcement to the Broad Based Solicitation for Financial Assistance Applications Involving Research, Development and Demonstration for the Office of Energy; Efficiency and Renewable Energy; Energy Efficient Industrialized Housing (EEIH)

AGENCY: Golden Field Office, DOE.

ACTION: Notice of Supplemental Announcement 11 to the Broad Based Solicitation for Financial Assistance Applications DE–PS36–99GO10383.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.8, is announcing its intention to solicit applications for Energy Efficient Industrialized Housing. The financial assistance award issued under this Supplemental Announcement will be a cooperative agreement.

DATES: The solicitation will be issued on or about April 15, 1999.

ADDRESSES: Copies of the Solicitation once issued, can be obtained from the Golden Field Office Home page at http://www.eren.doe.gov/golden/solicitations.html.

SUPPLEMENTARY INFORMATION: The Building Technology Program of the Department of Energy (DOE) Office of Energy Efficiency and Renewable Energy (EERE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.8, is announcing its intention to solicit Financial Assistance Applications seeking DOE cost sharing of projects that will accelerate the nation wide adoption of Energy Efficient Industrialized Housing (EEIH) technologies, materials and methods through direct interaction with the building industry. This solicitation is an integral component of the Administration's Climate Change Action Plan to reduce energy use in single and multifamily residential housing, and to lower greenhouse gas emissions.

Availability of the Solicitation: For information about guidelines and requirements for submitting Applications, see EERE's Broad Based Solicitation for Submission of Financial Assistance Applications Involving Research, Development and Demonstration, DE–PS36–99GO10383, found on the Golden Field Office Home Page at http://www.eren.doe.gov/golden/solicitations.html. It is anticipated that Supplemental Announcement—11, ''Energy Efficient Industrialized Housing,'' will be available for downloading on or after April 15, 1999 from this same Home Page address, with responses due May 28, 1999.

The objective of this solicitation is to accelerate nationwide adoption of advanced housing principles by the building industry through engineering development, monitoring and evaluation, testing, education, and innovative outreach activities targeting large and small builders, building components and product manufacturers, developers, and code bodies. Proposals are sought to carry out engineering development, testing, performance monitoring, or other innovative activities that, taken together, will serve to accelerate the adoption of Energy Efficient Industrialized Housing (EEIH) program technologies and practices. While applicants are not restricted in the type of activities that they propose, the following examples serve to define areas that are of significant interest to the Department:

- Research, development, and testing of advanced technologies, component and systems designs, manufacturing processes, and delivery systems targeted to energy efficient industrialized housing.
- Increasing the use of EEIH technologies and practices within the *Affordable Housing* market. This includes such programs as Habitat for Humanity or similar organizations.
- Incorporating EEIH technologies and practices as a part of innovative building programs being carried out throughout the country including ''green'' buildings, ''health'' houses, DOE's ''Building America'' builder consortia and ''Rebuild America'' partnerships, and EPA's ''ENERGY STAR'' buildings program.
- Measuring, evaluating, and reporting on the performance of industrialized housing equipment, components, systems, and complete buildings as a means of establishing the benefits of EEIH building practices in general, as well as improving the performance of specific designs, materials, and manufacturing techniques.
- Establishing design and construction educational programs that will serve as effective EEIH technology transfer mechanisms to homebuilders and developers.
- Promoting the use of innovative building systems that optimize the functional performance of industrialized buildings and their associated HVAC, electrical, lighting, and plumbing systems.
- Evaluating advanced methods of production, process engineering, resource planning, and inventory control applicable to factory-built housing.
- Providing information, training, and technical assistance to building professionals on EEIH technologies and techniques.

The award(s) under this Supplemental Announcement will be in the form of a Cooperative Agreement, with a term of three (3) to five (5) years per award. Subject to the availability of funding, DOE anticipates selecting one or two applications for award, with total fiscal year (FY) 1999 funding not to exceed $800,000. Anticipated total funding for each subsequent year will be $1,000,000. A minimum cost share of 20% of the total project cost is required. Solicitation Number DE–PS36–99GO10383, in conjunction with this Supplemental Announcement-11, will include complete information on the program, including technical aspects, funding, application preparation instructions, application evaluation criteria, and other factors that will be considered when selecting projects for funding. Issuance of the Supplemental Announcement is expected to take place on or about April 15, 1999, with responses due on May 28, 1999. Questions, following issuance of the solicitation, should be submitted in writing to: John R. Golovach, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393; transmitted via facsimile to John R. Golovach at (303) 275–4788; or electronically to john__golovach@nrel.gov.

FOR FURTHER INFORMATION CONTACT: John R. Golovach, Contract Specialist by e-mail at: john__golovach@nrel.gov, or Jeffrey L. Hahn, Project Officer, at: jeff__hahn@nrel.gov.

Issued in Golden, Colorado, on April 6, 1999.

Beth H. Peterman,

Acting Director, Office of Acquisition and Financial Assistance.

[FR Doc. 99–9435 Filed 4–14–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Golden Field Office; Supplemental Announcement to the Broad Based Solicitation for Financial Assistance Applications Involving Research, Development and Demonstration for the Office of Energy Efficiency and Renewable Energy; Photovoltaics for Schools

AGENCY: Golden Field Office, U.S. Department of Energy.

ACTION: Supplemental Announcement–12 to the Broad Based Solicitation for

Financial Assistance Applications, DE–PS36–99GO10383.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.8, is announcing its intention to solicit applications for Photovoltaics for Schools. The financial assistance awards issued under this Supplemental Announcement will be cooperative agreements.

DATES: The Supplemental Announcement will be issued on or about April 9, 1999.

ADDRESSES: Copies of the Supplemental Announcement once issued, can be obtained from the Golden Field Office Home page at http://www.eren.doe.gov/golden/solicitations.html.

SUPPLEMENTARY INFORMATION: DOE is soliciting applications to develop and demonstrate a model for integrating photovoltaics (PV) into middle and high school buildings and education programs. The model is intended to assist school districts throughout the country to reduce their utility costs through the installation of photovoltaic systems and to broaden their educational programs to include renewable energy. The PV installations are intended to produce electricity for the reduction of utility costs and to serve as teaching aids for the introduction of renewable energy into each school's science program. It is within DOE's mission to assist the general public and specific segments, such as school districts and related communities, to improve both educational programs and facilities through the use of renewable energy technologies such as photovoltaics. The objective of this Supplemental Announcement is to select Applicants who can develop an innovative model for integrating photovoltaics into school buildings, educational programs, and community awareness. Successful applications should demonstrate the viability of integrating photovoltaics into new or existing middle and high school buildings, the feasibility of reducing energy costs, the potential for increased student, teacher, and community awareness of photovoltaic energy systems, and the likelihood of applying the model in other school districts across the nation. Applicants are encouraged, but not required, to form business relationships or collaborative arrangements with schools, School District(s), the U.S. photovoltaic power industry, National Laboratories, the utility industry, academic institutions, and community groups to respond to this Supplemental Announcement for the advancement of photovoltaic technology. The ability of the Participants to develop a model and demonstrate photovoltaic systems in schools along with the capability to develop model educational and informational materials related to the demonstration activities will be factors in selecting projects for award under this Supplemental Announcement. Awards under this Supplemental Announcement will be Cooperative Agreements with a term of up to one year. Subject to funding availability, the total DOE funding available under this Supplemental Announcement will be approximately $100,000. DOE anticipates selecting one to two applications for award under this Supplemental Announcement. A minimum cost share of 50% of total project costs is required in order to be considered for award under this Supplemental Announcement. Solicitation Number DE–PS36–99GO10383, in conjunction with this Supplemental Announcement–12, will include complete information on the program including technical aspects, funding, application preparation instructions, application evaluation criteria, and other factors that will be considered when selecting projects for funding. Responses to the Supplemental Announcement are due on June 10, 1999. Questions should be submitted in writing to: John P. Motz, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393; transmitted via facsimile to John P. Motz at (303) 275–4788; or electronically to john__motz@nrel.gov.

FOR FURTHER INFORMATION CONTACT: John Motz, Contract Specialist, at 303–275–4737, e-mail john__motz@nrel.gov, or Robert Martin, Project Officer, at 303–275–4763, e-mail robert__martin@nrel.gov.

Issued in Golden, Colorado, on April 7, 1999.

Beth H. Peterman,

Acting Procurement Director, GO.

[FR Doc. 99–9434 Filed 4–14–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, May 5, 1999: 5:30 p.m.–9:00 p.m.

ADDRESSES: U.S. Department of Energy, Nevada Support Facility, Great Basin Room, 232 Energy Way, North Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. Department of Energy, Office of Environmental Management, P.O. Box 98518, Las Vegas, Nevada 89193–8513, phone: 702–295–0197.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

5:30 p.m. Call to Order
5:40 p.m. Presentations
7:00 p.m. Public Comment/Questions
7:30 p.m. Break
7:45 p.m. Review Action Items
8:00 p.m. Approve Meeting Minutes
8:10 p.m. Committee Reports
8:45 p.m. Public Comment
9:00 p.m. Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kevin Rohrer, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Kevin Rohrer at the address listed above.

Issued at Washington, DC on April 8, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–9344 Filed 4–14–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. NJ97–3–006 and EL99–49–000]

United States Department of Energy, Bonneville Power Administration; Notice of Filing

April 9, 1999.

Take notice that on March 30, 1999, with the United States Department of Energy's request for withdrawal of Bonneville's Petition for Expedited Declaratory Order Approving an Amendment to Bonneville's Open Access Transmission Tariff and for Exemption in Lieu of Filing Fee, filed with the Commission on March 23, 1999, noticed separately, Bonneville also filed a Petition for Expedited Declaratory Order that Proposed Amended Open Access Transmission Tariff Maintains Reciprocity Finding and For Exemption in Lieu of Filing Fee.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before April 19, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9365 Filed 4–14–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–292–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

April 9, 1999.

Take notice that on April 7, 1999, Columbia Gas Transmission (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed a request with the Commission in Docket No. CP99–292–000, pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate the facilities necessary to establish two additional points of delivery to an existing customer for firm transportation service authorized in blanket certificate issued in Docket No. CP83–76–000, all as more fully set forth in the request on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Columbia proposes to construct and operate the facilities necessary to establish two points of delivery to Mountaineer Gas Company (MGC), in Upshur County, West Virginia which would involve construction of interconnecting facilities located on Columbia's existing right-of way. The estimated cost to construct the new points of delivery would be $300 and would be treated as an O&M Expense.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9366 Filed 4–14–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP93–3–003]

Northern Border Pipeline Company; Notice of Petition to Amend

April 9, 1999.

Take notice that on April 5, 1999, Northern Border Pipeline Company (Northern Border), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed a petition to amend the authorization issued on October 30, 1992, as previously amended by the order issued on February 25, 1994, requesting authority to add existing receipt and delivery points on the Northern Border System as secondary receipt and delivery points and to allow the backhaul flow of gas under the U.S. Shippers Service Agreement, as amended, between Northern Border and Pan-Alberta Gas (U.S.) Inc. (PAG–US), all as more fully set forth in the petition on file with the Commission and open to public inspection. This filing may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Northern Border states that the purpose of its proposal is that it provides PAG–US greater flexibility when conducting business with markets and suppliers.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 30, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by other intervenors. An intervenor can file for rehearing of any Commission

order and can petition for a court review of any such order. However, an intervenor must submit copies of comment or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court. The Commission will consider all comments and concerns equally, whether filed by Commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern Border to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9360 Filed 4–14–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–281–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 9, 1999.

Take notice that on April 7, 1999, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1 the following tariff sheets, to become effective April 22, 1999:

Original Sheet No. 5B.05
Original Sheet No. 157

Transwestern states that the purpose of this filing is to submit a form of FTS–1 Service Agreement that containing a negotiated rate and material deviations from Transwestern's Rate Schedule FTS–1 form of service agreement. Tariff Sheets Nos. 5B.05 and 157 reference the agreement as a negotiated rate agreement and a non-conforming agreement. Included with this filing is a copy of the form of service agreement.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with sections 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9364 Filed 4–14–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–61–000, et al.]

GEN~SYS Energy, et al. Electric Rate and Corporate Regulation Filings

April 7, 1999.

Take notice that the following filings have been made with the Commission:

1. GEN~SYS Energy

[Docket No. EC99–61–000]

Take notice that on April 2, 1999, GEN~SYS Energy tendered for filing an application under Section 203 of the Federal Power Act for approval for a change of control of GEN~SYS Energy and to transfer a jurisdictional facility. GEN~SYS Energy has served copies of this filing on the United States Department of Agriculture Rural Utilities Service and the Mid-Continent Area Power Pool.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Consolidated Edison Company of New York, Inc. and Keyspan-Ravenswood, Inc.

[Docket Nos. EC99–60–000 and ER99–2376–000]

Take notice that on April 1, 1999, Consolidated Edison Company of New York, Inc. and Keyspan-Ravenswood, Inc. (collectively, the Applicants) tendered for filing an application under Section 203 of the Federal Power Act for approval to transfer certain jurisdictional facilities associated with the sale of the Ravenswood Generation Station. The Applicants also tendered for filing pursuant to Section 205 of the Federal Power Act certain agreements providing for services related to the transfer of facilities.

The Applicants have served a copy of this filing on the New York Public Service Commission.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company; Sithe Energies, Inc.

[Docket Nos. EC99–62–000 and ER99–2388–000]

Take notice that on April 2, 1999, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company (doing business as and collectively referred to as GPU Energy) and Sithe Energies, Inc. (Sithe) submitted for filing certain

applications and rate schedules associated with the sale of substantially all of GPU Energy's non-nuclear generating facilities to certain special purpose wholly-owned indirect subsidiaries of Sithe.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Sumas Energy 2, Inc.

[Docket No. EG99–107–000]

Take notice that on April 2, 1999, Sumas Energy 2, Inc. (SE2), a Washington corporation with its principal place of business at 335 Parkplace, Ste. 110, Kirkland, Washington 98033, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

SE2 proposes to construct, own and operate a 720 megawatt nominal electric generation station to be located in Sumas, Washington. The station is scheduled to be in service on or before December, 2001. All capacity and energy from the plant will be sold exclusively at wholesale.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Ennis Tractebel Power Company, Inc.

[Docket No. EG99–108–000]

Take notice that on April 2, 1999, Ennis Tractebel Power Company, Inc. (Ennis Tractebel), 1177 West Loop South, Houston, Texas, 77027, filed with the Federal Energy Regulatory Commission an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's regulations.

Ennis Tractebel is a Delaware corporation and a wholly owned subsidiary of Tractebel Power, Inc. Ennis Tractebel plans to construct up to a 350 megawatt, natural gas-fired, combined cycle generating facility within the region governed by the Electric Reliability Council of Texas (ERCOT). Electricity generated by the facility will be sold at wholesale to one or more power marketers, utilities, cooperatives, or other wholesalers.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comment to those that concern the adequacy or accuracy of the application.

6. Central and South West Services, Inc.

[Docket Nos. EL98–31–000 and EL98–33–000 (not consolidated)]

Take notice that on April 1, 1999, Central and South West Services, Inc. (CSWS) tendered for filing revised tariff and rate schedule sheets for West Texas Utilities Company (WTU).

Comment date: May 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Black Hills Corporation

[Docket No. EL99–53–000]

Take notice that on April 1, 1999, Black Hills Corporation submitted an application requesting the Federal Energy Regulatory Commission to waive the OASIS requirements of Order No. 889.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. San Francisco Bay Area Rapid Transit District, an Agency of the State of California, Complainant, v. Pacific Gas and Electric Company, a Corporation, Respondent

[Docket No. EL99–54–000]

Take notice that on April 2, 1999, San Francisco Bay Area Rapid Transit District filed a Complaint and Request for Relief.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint shall also be filed on or before May 3, 1999.

9. Navajo Tribal Utility Authority

[Docket No. EL99–55–000]

Take notice that on April 2, 1999, the Navajo Tribal Utility Authority filed a Petition for Declaratory Order seeking resolution of a dispute as to certain terms involving NTUA's right to request network service under the Arizona Public Service Company's Open Access Transmission Tariff for delivery points physically connected to APS but dynamically scheduled by remote terminal units.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Entergy Services, Inc.

[Docket No. EL99–57–000]

Take notice that on April 5, 1999, Entergy Services, Inc. (Entergy) tendered for filing a Petition for Declaratory Order Regarding Compliance of Transco Proposal With Applicable ISO Principles. Entergy's petition asks the Commission to issue an order declaring that the plan to create a ''Transco,'' an independent, regional transmission company that will operate the transmission system of Entergy and other transmission-owning companies is consistent with the relevant ISO principles established by the Commission in Order No. 888, and its progeny, especially those involving independent, governance, and conflicts of interest. Entergy requests that the Commission issue the requested declaratory relief before the end of July 1999.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Cambridge Electric Light Company

[Docket Nos. ER94–1409–004 and EL94–88–004]

Take notice that, on April 1, 1999, Cambridge Electric Light Company (Cambridge) filed a Revised Compliance Filing Pursuant to Order Directing Revisions and Conditionally Accepting Compliance Filing, Issued March 2, 1999.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Northern Indiana Public Service and Wabash Valley Power Association v. Northern Indiana Public Service Company

[Docket Nos. ER96–399–000 and EL96–35–000]

Take notice that on September 14, 1998, Wabash Valley Power Association filed a refund report.

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Granger Energy, L.L.C. Williams Energy Marketing & Trading Co.

[Docket Nos. ER97–4240–003 and ER95–305–019]

Take notice that on April 2, 1999 the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

14. FirstEnergy Operating Companies

[Docket No. ER99–2042–000]

Take notice that on April 1, 1999, the FirstEnergy Operating Companies (The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and The Toledo Edison Company) tendered for filing a response to the Commission's December 16, 1998 Order on Petition for

Declaratory Order in Docket No. EL98–52–000.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. PP&L, Inc.

[Docket No. ER99–2360–000]

Take notice that on April 1, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated March 26, 1999 with PECO Energy Company (PECO), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds PECO as an eligible customer under the Tariff.

PP&L requests an effective date of April 1, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to PECO and to the Pennsylvania Public Utility Commission.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Avista Energy, Inc.

[Docket No. ER99–2361–000]

Take notice that on April 1, 1999, Avista Energy, Inc. (Avista Energy), tendered for filing an amendment to Supplement No. 1 of Avista Energy's Rate Schedule FERC No. 1. Avista Energy states that the purpose of the filing is to update Avista Energy's Code of Conduct to conform with the standards for affiliate transactions articulated in recent Commission decisions.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. South Carolina Electric & Gas Company

[Docket No. ER99–2362–000]

Take notice that on April 1, 1999, South Carolina Electric & Gas Company (SCE&G), tendered for filing a service agreement establishing Wabash Valley Power Association, Inc., as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the date of filing. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Wabash Valley Power Association, Inc., and the South Carolina Public Service Commission.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Boston Edison Company

[Docket No. ER99–2363–000]

Take notice that on April 1, 1999, Boston Edison Company (Boston Edison), tendered for filing two service agreements between Boston Edison as the transmission provider and DukeSolutions, Inc. (Duke), as the transmission customer. One service agreement provides for non-firm point-to-point transmission service; the other provides for firm point-to-point transmission service. Both services are to be provided under Boston Edison's Open-Access Transmission Tariff, FERC Volume No. 8.

Boston Edison requests an effective date of May 31, 1999.

Boston Edison states that copies of the filing have been served upon the affected customer and the Massachusetts Department of Telecommunications and Energy.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Genstar Energy, L.L.C.

[Docket No. ER99–2364–000]

Take notice that on April 1, 1999, Genstar Energy, L.L.C. (Genstar), petitioned the Commission for acceptance of Genstar Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Genstar intends to engage in wholesale electric power and energy purchases and sales as a marketer. Genstar is not in the business of generating or transmitting electric power.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. PP&L, Inc.

[Docket No. ER99–2365–000]

Take notice that on April 1, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement for Sale of Capacity Credits, dated February 23, 1999, with West Penn Power d/b/a Allegheny Energy (Allegheny) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Allegheny as an eligible customer under the Tariff.

PP&L requests an effective date of April 1, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Allegheny and to the Pennsylvania Public Utility Commission.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Indianapolis Power & Light Company

[Docket No. ER99–2366–000]

Take notice that on April 1, 1999, Indianapolis Power & Light Company (IPL), tendered for filing an amendment to the interconnection agreement between IPL and Hoosier Energy Rural Electric Cooperative, Inc.

Copies of this filing were sent to the Indiana Utility Commission and Hoosier Energy.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Delmarva Light & Power Company

[Docket No. ER99–2367–000]

Take notice that on April 1, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing a Supplemental Agreement to the Interconnection Agreement between Delmarva and the City of Dover, Delaware (Dover). The Supplemental Agreement makes minimal changes to the Interconnection Agreement which are necessary to implement changes required by the PJM Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area (RAA).

Delmarva asks that this filing become effective on June 1, 1999, sixty-one days after filing, when the RAA will take effect.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Atlantic City Electric Company

[Docket No. ER99–2368–000]

Take notice that on April 1, 1999, Atlantic City Electric Company (ACE), tendered for filing a Supplemental Agreement to the Interconnection Agreement between ACE and Vineland. Subject to the adoption of an approving resolution by the City Council of Vineland, Vineland's representatives have agreed to and support the terms of the Supplemental Agreement. The Supplemental Agreement makes minimal changes to the Interconnection Agreement which are necessary to implement changes required by the PJM Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area (RAA).

ACE asks that this filing become effective on June 1, 1999, sixty-one days after filing, when the RAA will take effect.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Alliance for Cooperative Energy Services Power Marketing LLC

[Docket No. ER99–2369–000]

Take notice that on April 1, 1999, Alliance for Cooperative Energy Services Power Marketing LLC (ACES Power Marketing) petitioned the Commission for acceptance of ACES Power Marketing Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

ACES Power Marketing intends to engage in wholesale electric power and energy purchases and sales as a marketer. ACES Power Marketing is not in the business of generating or transmitting electric power. ACES Power Marketing is wholly owned by Buckeye Power, Inc., East Kentucky Power Cooperative, Inc., Southern Illinois Power Cooperative, and Wabash Valley Power Association, Inc., which are generation and transmission cooperatives that provide the electric requirements of their member-owner distribution cooperatives.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. MidAmerican Energy Company

[Docket No. ER99–2371–000]

Take notice that on April 1, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, tendered for filing a Firm Transmission Service Agreement with Northwest Iowa Power Cooperative (NIPCO) dated March 12, 1999, and entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of April 1, 1999, for the Agreement and accordingly, seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on NIPCO, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. PJM Interconnection, L.L.C.

[Docket No. ER99–2373–000]

Take notice that on April 1, 1999, the PJM Interconnection, L.L.C. (PJM), tendered for filing on behalf of the Members of the LLC, a membership application of Cinergy Capital Trading, Inc.

PJM requests an effective date on the day after this Notice of Filing is received by FERC.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Kansas Gas and Electric Company

[Docket No. ER99–2374–000]

Take notice that on April 1, 1999, Kansas Gas and Electric Company (KGE), tendered for filing a change in its Federal Power Commission Electric Service Tariff No. 93. KGE states that the change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc., under Service Schedule M to FPC Rate Schedule No. 93, for the period June 1, 1999 through May 31, 2000.

Copies of this filing were served upon the Kansas Corporation Commission.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Cinergy Services, Inc.

[Docket No. ER99–2375–000]

Take notice that on April 1, 1999, Cinergy Services, Inc. (Cinergy Services), on behalf of its Operating Companies (The Cincinnati Gas & Electric Company and PSI Energy, Inc.) tendered for filing unexecuted Notices of Cancellations, dated March 15, 1999, with Narrative Statements to terminate sales of electric energy by the Cinergy Operating Companies under individual negotiated agreements.

Cinergy Services requests an effective date of May 1, 1999. Said date coincides with the effective date of unexecuted Service Agreements under the Cinergy Operating Companies FERC Electric Power Sales Tariffs (Cost and Market) for several of these counter parties.

Copies of the filing were served upon all parties listed in Attachment B of the filing and to the parties to the respective service lists of each individual agreement.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. New York State Electric & Gas Corporation

[Docket No. ER99–2377–000]

Take notice that on April 2, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing Service Agreements between NYSEG and Aquila Energy and Morgan Stanley Capital Group, Inc., (Customer). These Service Agreements specify that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed July 9, 1997 and effective on November 27, 1997, in Docket No. ER97–2353–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of April 5, 1999, for the Service Agreements.

NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Louisville Gas And Electric Co./ Kentucky Utilities Company

[Docket No. ER99–2378–000]

Take notice that on April 2, 1999, Louisville Gas and Electric Company/ Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Firm Point-To-Point Transmission Service between LG&E/ KU and PG&E Energy Trading—Power, L.P., under LG&E/KU's Open Access Transmission Tariff.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. Northeast Utilities Service Company

[Docket No. ER99–2379–000]

Take notice that on April 2, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with Central Vermont Public Service Corporation (CVPS) under the NU System Companies' System Sale For Resale Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to CVPSC.

NUSCO requests that the Service Agreement become effective on April 1, 1999.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. PJM Interconnection, L.L.C.

[Docket No. ER99–2380–000]

Take notice that on April 2, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing a notice of cancellation for SCANA Energy Marketing, Inc., South Carolina Electric & Gas Company, New England Power Company, MidCon Power Services, MidCon Gas Services and MC2 to terminate their membership in PJM (collectively withdrawing companies).

PJM states that it served a copy of its filing on all of the members of PJM, including the withdrawing companies, and each of the state electric regulatory commissions within the PJM control area.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. Louisville Gas And Electric Co./ Kentucky Utilities Company

[Docket No. ER99–2381–000]

Take notice that on April 2, 1999, Louisville Gas and Electric Company/ Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Firm Point-To-Point Transmission Service between LG&E/ KU and Delmarva Power & Light Company under LG&E/KU's Open Access Transmission Tariff.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. Louisville Gas And Electric Co./ Kentucky Utilities Company

[Docket No. ER99–2382–000]

Take notice that on April 2, 1999, Louisville Gas and Electric Company/ Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Non-Firm Point-To-Point Transmission Service between LG&E/ KU and Delmarva Power & Light Company under LG&E/KU's Open Access Transmission Tariff.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

35. Consolidated Edison Company Of New York, Inc.

[Docket No. ER99–2383–000]

Take notice that on April 2, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to Southern Company Energy Marketing, L.P. (Southern).

Con Edison states that a copy of this filing has been served by mail upon Southern.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

36. NJR Energy Services Company

[Docket No. ER99–2384–000]

Take notice that on April 2, 1999, NJR Energy Services Company (NJRES), tendered for filing pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an application requesting acceptance of its proposed FERC Electric Rate Schedule No. 1, authorizing market-based rates, granting waivers of certain Commission regulations and granting certain blanket approvals. Consistent with these requests, NJRES seeks authority to engage in electric power marketing and to sell power at market-based rates.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

37. Central Illinois Light Company

[Docket No. ER99–2385–000]

Take notice that on April 2, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and two service agreements with two new customers, Corn Belt Energy, Inc., and DTE Energy Trading.

CILCO requested an effective date of March 26, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

38. Central Illinois Light Company

[Docket No. ER99–2386–000]

Take notice that on April 2, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and two service agreements with two new customers, Corn Belt Energy, Inc., and DTE Energy Trading and a name change for a customer now known as Aquila Power Corporation.

CILCO requested an effective date of March 26, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

39. KeySpan-Ravenswood, Inc.

[Docket No. ER99–2387–000]

Take notice that on April 2, 1999, KeySpan-Ravenswood, Inc. (KeySpan-Ravenswood), tendered for filing with the Federal Energy Regulatory Commission, pursuant to Rule 205, 18 CFR 385.205, and Section 35.12, 18 CFR 35.12 of the Commission's Regulations, an Application for Approval of Rate Schedules For Future Power Sales at Market-Based Rates and Waivers and Preapprovals of Certain Commission Regulations for KeySpan-Ravenswood's Initial Rate Schedules FERC Nos. 1 and 2.

The proposed Rate Schedules would authorize KeySpan-Ravenswood to engage in the wholesale sales of firm capacity and/or energy and non-firm capacity and/or energy and of ancillary services to eligible customers at market-based rates.

Comment date: April 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

40. Sunflower Electric Power Corporation

[Docket No. NJ99–2–000]

Take notice that on April 2, 1999, Sunflower Electric Power Corporation (Sunflower) submitted a Petition for Declaratory Order determining that its open access transmission tariff satisfies the Commission's comparability standards and is an acceptable reciprocity tariff. Sunflower also seeks waiver of the requirements of Order No. 889, on the ground that it is a small electric utility, and waiver of the filing fee otherwise applicable to a petition for declaratory order.

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

41. The Montana Power Company

[Docket No. ER99–2370–000]

Take notice that on April 1, 1999, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an unexecuted Network Integration Transmission Service Agreements and Network Operating Agreements with Golden Sunlight Mines, Inc. (Golden Sunlight), Cenex Harvest States Cooperatives (Cenex), Illinova Energy Partners, Inc. (Illinova), and Energy West Resources, Inc. (Energy West) under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon Golden Sunlight, Cenex, Illinova, and Energy West.

Comment date: April 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public

inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–9359 Filed 4–14–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 9, 1999.

Take notice that the following two hydroelectric applications have been filed with the Commission and are available for public inspection:

(a) *Application Type:* Non-Project Use of Project Lands and Waters.

(b) *Project No.:* 1494–172 and 1494–178.

(c) *Date Filed:* December 30, 1998 and March 8, 1999, respectively.

(d) *Applicant:* Grand River Dam Authority.

(e) *Name of Project:* Pensacola.

(f) *Location:* The Pensacola Project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma. This project does not utilize Federal or Tribal lands.

(g) *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) *Applicant Contact:* Mary E. Von Drehle, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301, (918) 256–5545.

(i) *FERC Contact:* Any questions on this notice should be addressed to Jon Cofrancesco at Jon.Cofrancesco@ferc.fed.us or telephone 202–219–0079.

(j) *Deadline for filing comments and or motions:* May 15, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Please include the project number (1494–172 or 1494–178) on any comments or motions filed.

(k) *Description of Project:* 1494–172 Grand River Dam Authority, licensee for the Pensacola Project, requests Commission authorization to issue a permit to Lewis Perrault, d/b/a Lewieville Development Company, to add one dock (56′ x 570′) containing 30 boat slips to an existing commercial facility, located in Grand Craft Cove.

1494–178 Grand River Dam Authority requests Commission authorization to issue a permit to Bob Oldham, d/b/a Serenity Point, to add two docks containing 3 boat slips, a gas dock and a swim dock to an existing commercial facility containing one dock with 4 boat slips. The swim dock would be designed to accommodate 10 additional boat slips in the future.

(l) *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

(m) Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9361 Filed 4–14–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meetings and Site Visit and Soliciting Scoping Comments

April 9, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* P–2588–004.

c. *Date filed:* July 10, 1998.

d. *Applicant:* City of Kaukauna.

e. *Name of Project:* Little Chute Hydroelectric Project.

f. *Location:* On the Fox River in the Village of Combined Locks, Outagamie County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Peter D. Prast, P.E., General Manager, Kaukauna Electric & Water Department, 777 Island Street, P.O. Box 1777, Kaukauna, Wisconsin 54130.

i. *FERC Contact:* Any questions on this notice should be addressed to Steve Kartalia, E-mail address stephen.kartalia@ferc.fed.us, or telephone (202) 219–2942.

j. *Deadline for filing scoping comments:* June 9, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *Description of Project:* The project consists of the following existing facilities: (1) an integral intake powerhouse, located at the right abutment of the United States Army Corps of Engineers' Little Chute Dam, containing three units with a total installed capacity of 3,300 kW; (2) connections to three 2.4/12-kV single phase transformers and a 12-kV transmission line 1.25 miles long; and (3) other appurtenances.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www/ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Scoping Process.

The Commission intends to prepare an Environmental Assessment (EA) on the project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

The Commission will hold scoping meetings, one in the daytime and one in the evening, to help us identify the scope of issues to be addressed in the EA.

The daytime scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Daytime Meeting

Wednesday, May 26, 1999, 9 a.m., Kaukauna Electric and Water Department Office, 777 Island Street, Kaukauna, Wisconsin 54130

Evening Meeting

Wednesday, May 26, 1999, 7 p.m., Kaukauna Electric and Water Department Office, 777 Island Street, Kaukauna, Wisconsin 54130

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EA to the parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meetings.

Site Visit

The applicant and Commission staff will conduct a project site visit on Tuesday, May 25, 1999. We will meet at the recreational parking lot near the project powerhouse at 1 p.m. If you would like to attend, please call Karen Brooks at (920) 766–5721, ext. 13, no later than May 14, 1999.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resource at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9362 Filed 4–14–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 9, 1999.

a. *Type of Application:* Preliminary Permit.

b. *Project No.*: P–11694–000.

c. *Date filed:* March 5, 1999.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Kentucky L&D #4 Project.

f. *Location:* At the Corps of Engineer's Kentucky L&D #4, on the Kentucky River, near the Town of Frankfort, Franklin County, Kentucky.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. *Applicant Contact:* Mr. Ronald Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Michael Spencer, E-mail address at Spencer.Michael@FERC.fed.us, or telephone (202) 219–2846.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20526.

The Commission's Rules and Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the Corps of Engineer's Kentucky L&D #4 dam and consist of the following: (1) two 72-inch-diameter, 50-foot-long penstocks, constructed in the existing outlet works; (2) a powerhouse containing two generating units with a combined total capacity of 2.5 MW and an estimated average annual generation of 15.0 Gwh; and (3) a 300-foot-long transmission line.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, N.E., Room 2A, Washington, DC 20426, or by calling (202) 219–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and

reproduction at the address in item h above.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9363 Filed 4–14–99; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 10, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Ogden BancShares, Inc., Ogden, Iowa; to acquire 100 percent of the voting shares of Community Bank of Boone, Boone, Iowa (in organization).

Board of Governors of the Federal Reserve System, April 12, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–9441 Filed 4–14–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of February 2-3, 1999

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on February 2-3, 1999.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that the economy expanded rapidly in the closing months of 1998. Nonfarm payroll employment posted strong gains in November and December, and the civilian unemployment rate fell to 4.3 percent in December. Total industrial production strengthened in the fourth quarter, owing in large measure to a surge in the production of motor vehicles and parts. Total retail sales rose sharply in the fourth quarter, and home sales and housing starts increased appreciably. Available indicators suggest that business capital spending picked up markedly in the fourth quarter after a lull in the third. In November, the nominal deficit on U.S. trade in goods and services was somewhat larger than in October, but the combined October-November deficit was slightly smaller than its third-quarter average. Inflation has remained subdued despite very tight labor markets.

Most short-term interest rates have declined somewhat on balance since the meeting on December 22, while longer-term rates have changed little. Share prices in equity markets have posted further sizable gains on balance over the intermeeting period. In foreign exchange markets, the trade-weighted value of the dollar has depreciated slightly over the period in relation to other major currencies but it has appreciated somewhat in terms of the currencies of a broader group that also includes other important trading partners of the United States.

M2 and M3 continued to record very large increases in late 1998, but available data pointed to some moderation in January. From the fourth quarter of 1997 to the fourth quarter of 1998, both aggregates rose at rates well above the Committee's annual ranges. Total domestic nonfinancial debt expanded at a pace somewhat above the middle of its range in 1998.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at this meeting established ranges for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1998 to the fourth quarter of 1999. The range for growth of total domestic nonfinancial debt was set at 3 to 7 percent for the year. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

To promote the Committee's long-run objectives of price stability and sustainable economic growth, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 4-3/4 percent. In view of the evidence currently available, the Committee believes that prospective developments are equally likely to warrant an increase or a decrease in the federal funds rate operating objective during the intermeeting period.

By order of the Federal Open Market Committee, April 7, 1999.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 99–9377 Filed 4–14–99; 8:45 am]

BILLING CODE 6210–01–F

[1] Copies of the Minutes of the Federal Open Market Committee meeting of February 2-3, 1999, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Request for Planning Ideas

AGENCY: Agency for Health Care Policy and Research, HHS.

ACTION: Notice.

SUMMARY: The Agency for Health Care Policy and Research (AHCPR) invites recommendations for future initiatives in areas identified as priorities in the Agency's current strategic plan. This plan describes the framework that the Agency will use to guide the development of budget proposals for Fiscal Years 2000, 1001, and 2002 as well as decisions on resource allocations for research, translation (including tool development), dissemination, and evaluation activities that will facilitate the implementation of

research findings at all levels of the health care system.

Nature of Recommendations

AHCPR encourages written suggestions from its customers and stakeholders for future Agency activities. Submissions should provide the following:

- A description of the focus of the activity and its alignment with Agency priorities;
- The gap addressed by the proposal;
- The population addressed by the activity;
- An indication of the health care issues that are of most concern for the proponent (of the activity);
- Background information to help AHCPR assess the urgency of the need for the results of the proposed projects (i.e., realizing that projects undertaken by the Agency will take a year (minimally) to begin, what is the magnitude of the problem addressed, how soon could the results be implemented, and what change would be anticipated);
- An estimate of the budget required to adequately address the proposed activity;
- Potential partners for the Agency; and
- A description of the desired end product(s) (research knowledge; information; tools such as instruments for measurements, databases, informatics, and other applications that can be used to assess and improve care; or systems intervention) and how the product will be used in the health care system.

DATES; Trepsonses to this request will be accepted on an ongoing basis.

ADDRESSES: Submissiosn should be brief (no more than three pages) and may be in the form of a letter, preferably with an electronic file in a standard word processing format on a 3½ floppy disk, or e-mail. Responses to this request should be submitted to: Lisa Simpson, M.B., B.Ch., M.P.H., Deputy Administrator, Agency for Health Care Policy and Research, 2101 E. Jefferson Street, Suite 600, Rockville, Maryland 20852, *lsimpson@ahcpr.gov*.

All responses will be available for public inspection at AHCPR's Immediate Officer of the Administrator, weekdays between 8:30 a.m. and 5 p.m. AHCPR will not respond to individual responses, but will consider all nominations in selecting topics. AHCPR routinely publishes new research interests, policies, and initiatives in the **Federal Register** (see GPO Access web site *http://www.access.gpo.gov/su docs/aces/aces140.html*) and the NIH Guide for Grants and Contracts (see Funding Opportunities through AHCPR's web site *http://www.ahcpr.gov*). The budget priorities for each fiscal year are published in the President's budget for the Department of Health and Human Services (http://www.hhs.gov/progorg/asmb/budget/fy2000.html).

Arrangements for reviewing the submissions may be made by calling (301) 594–0152. Responses may also be accessed two weeks after receipt by the Agency through AHCPR's Electronic FOIA Reading Room also on AHCPR's web site.

FOR FURTHER INFORMATION CONTACT: Additional information about AHCPR can be accessed on the AHCPR web site. In particular the AHCPR strategic plan is available at *http://www.ahcpr.gov/about/stratpln.htm*.

Information about topic nomination can be obtained by contacting: Jane Osborne, Planning Officer, Immediate Office of the Administrator, 2101 E. Jefferson St., Suite 600, Rockville, Maryland 20852; telephone (301) 594–0152; E-mail address: josborne@ahcpr.gov.

In order to facilitate the handling of submissions, please include full information about the person submitting the recommendation: (a) Name, (b) title, (c) organization, (d) mailing address, (e) telephone number, and (f) e-mail address. Please do not use acronyms. Electronic submissions are also encouraged to *lsimpson@ahcpr.gov*.

SUPPLEMENTARY INFORMATION:

Background

The mission of AHCPR is to support, conduct, and disseminate research that improves access to care as well as the outcomes, quality, cost, and utilization of health care services. The Agency sponsors and conducts health care research that helps the American health care system, which includes patients, providers, plans, purchasers and policymakers, provide access to high quality, cost-effective services; be accountable and responsive to consumers and purchasers; and improve health status and quality of life.

Wide variations in practice patterns, quality, and outcomes continue, and a gap persists between what we know and the care that we deliver. It is clear today that AHCPR now has knowledge of what can be improved and can commit to a significant investment in promoting the adoption and use of research findings. This commitment also focuses on being able to demonstrate that the potential benefits demonstrated by the research are actually achieved in daily practice. This must be done while continuing to support new research on priority health issues and the development of new tools, so that in the future this knowledge and the new tools based on research findings can be translated and implemented to produce improved health care.

AHCPR Strategic Goals

The Agency has identified three strategic goals, each of which will contribute to improving the quality of health for all Americans.

1. Support Improvements in Health Outcomes

The field of health outcomes research studies the end results of the structure and processes of health care on the health and well-being of patients and populations.[1] A unique characteristic of this research is the incorporation of the consumer's or patient's perspective in the assessment of effectiveness. Policymakers in the public and private sectors are also concerned with the end results of their investments in health care, whether at the individual, community, or population level.

High priority for AHCPR's outcomes research will be given to research relating to conditions that are common, expensive, and/or for which significant variations in practice or opportunities for improvement have been demonstrated. Also important is research linking types of delivery systems or processes by which care is provided with their effects on outcomes, as well as, research on clinical preventive services that may prevent premature death and disability in the United States.

2. Strengthen Quality Measurement and Improvement

At its most basic level, high quality health care is doing the right thing, at the right time, in the right way, for the right person. The challenge that clinicians and health system managers face every day is knowing what the right thing is, when the right time is, and what the right way is. Patients and their families are also confronted with making choices about treatments and care settings with little information on the relative quality, risks, and benefits of the options available to them. Policy makers, at all levels, also need quality information to support their deliberations.

AHCPR's second research goal will include developing and testing measures of quality, as well as studying the best ways to collect, compare, and communicate these data. The Agency

[1] Institute of Medicine, 1996.

will also focus on research that determines the most effective way to improve health care quality. This includes how to promote the use of information on quality through a variety of strategies such as determining effective ways to disseminate the information and illustrating the impact that the use of quality information can have on the provision and financing of health care.

3. Identify Strategies To Improve Access, Foster Appropriate Use, and Reduce Unnecessary Expenditures

Adequate access to health care services continues to be a challenge for many Americans. This is particularly so for the poor, the uninsured, members of minority groups, rural residents, and other vulnerable populations. In addition, the changing organization and financing of care has raised new questions about access to a range of health services, including emergency and specialty care. At the same time, examples of inappropriate use of care, including overutilization and misuse of services, continue to be documented.

The increasing portion of our Nation's resources devoted to health care expenditures remains a concern, with some indicators suggesting that the rate of increase may accelerate once again. The continued growth in public spending for Medicare and Medicaid, in particular, raises important questions about the care delivered to the elderly, poor, and people with disabilities. Together, these factors require concerted attention to the determinants of access, use, and expenditures as well as effective strategies to improve access, contain costs, and assure appropriate and timely use of effective services.

Priority Populations

In addition to the strategic research goals, certain population groups warrant a special focus from AHCPR and the health services research community: racial and ethnic minorities, women, children, the elderly, low-income populations, people living in rural areas, and people living with chronic illnesses and/or disabilities. These are all groups for whom public policy struggles to find effective solutions to improve health care. Health services research has consistently documented the persistent, and at times great, disparities in health status and access to appropriate health care services for certain groups, notably racial and ethnic minorities and low income families and children. Gender-based differences in access, quality, and outcomes are also widespread; but whether these differences should be eliminated or are appropriate is not well understood. Despite the dramatic changes occurring in the organization and financing of children's health services, the knowledge base for guiding these changes or assessing their impact is less well developed than that for adults. Health care issues that exist for the elderly and for people with chronic illnesses and disabilities also require attention. Health services research should do a better job of bringing science-based information to bear on these disparities so that the health of these groups is enhanced.

Training

AHCPR invests in the training of health services researchers to address the research and analytic needs of the changing health care system. Areas of focus include: (1) Training that is designed to reflect and incorporate evolving innovations in data systems and research tools so that the researchers of the future not only identify and address significant research questions, but also employ cutting edge methodological, analytic, and data handling techniques, including appropriate privacy and confidentiality safeguards; (2) training that allows new investigators to obtain additional, concentrated research experience to facilitate the transition from a trainee or fellow status to that of an independent investigator with an established area of research expertise and demonstrated productivity; (3) training that provides a solid foundation in general health services research methods and concepts within a multidisciplinary environment with special emphasis placed on the unique needs of the identified population groups, i.e., minority populations and children. As part of this initiative, AHCPR is interested in recruiting Historically Black Colleges and Universities and Hispanic Serving Institutions to apply independently or in partnership with other institutions, to develop programs to train minority investigators; and (4) training that focuses on conducting research using personally identifiable health care information without injury or disclosure to individuals. This training will directly address the growing concerns about the privacy of health care information.

Types of ACHPR Activities in Support of the Goals

Producing meaningful contributions to the Nation and to research on health care requires continuous activity focused on iterative improvement in priority setting, on developing research initiatives, and on research products and processes. The following research cycle describes the processes AHCPR uses to conduct its ongoing activities in order to make the most productive use of its resources.

1. Needs Assessment

AHCPR conducts needs assessments through a variety of mechanisms including expert meetings, conferences, and consultations with stakeholders and customers of its research, publishing notices for comment in the **Federal Register**, as well as regular meetings with its National Advisory Council and government leaders. The results of these assessments are used to determine and prioritize information needs.

2. Knowledge Creation

AHCPR supports and conducts research to produce the next generation of knowledge needed to improve the health care system. Building on the last 10 years of investment in outcomes and health care research, AHCPR will focus on national priority areas for which much remains unknown.

3. Translation and Dissemination

Simply producing knowledge is not sufficient; findings must be useful and made widely available to practitioners, patients, and other decisionmakers. In order to accelerate the pace of quality improvement the focus must be on closing the gap between what we know and what we do. The Agency will systematically identify priority areas for improving care through integrating findings into practice and will determine the most effective ways of doing this. Additionally, AHCPR will continue to synthesize and translate knowledge into products and tools based on research findings that support its customers in problem-solving and decision making. It will then actively disseminate the knowledge, products, and tools to appropriate audiences. Effective dissemination involves forming partnerships with other organizations and leveraging resources.

4. Evaluation

Knowledge development is a continuous process. It includes a feedback loop that depends on evaluation of the research's utility to the end user and impact on health care. In order to assess the ultimate outcomes of AHCPR research, the Agency is placing increased emphasis on the evaluation of the impact and usefulness of Agency-supported work in health care settings and policymaking. The evaluation activities will include a variety of projects, from smaller, short-term projects that assess process, outputs,

and interim outcomes to larger, retrospective projects that assess the ultimate outcomes/impact of AHCPR activities on the health care system.

AHCPR Customers

The AHCPR research agenda is designed to be responsive to the needs of its customers/stakeholders and what they value in health care. These include consumers and patients; clinicians and other providers; institutions; plans; purchasers; and policymakers in all sectors (e.g., Federal, State, and local governments; voluntary associations; international organizations; and foundations). All of these customers require evidence-based information to inform health policy decisions. Health policy choices in this context represent three general levels of decisionmaking: (1) Clinical Policy Decisions—Information is used every day by clinicians, consumers, patients, and health care institutions to make choices about what works, for whom, when, and at what cost. (2) Health Care System Policy Decisions—Health plan and system administrators and policymakers are confronted daily by choices on how to improve the health care system's ability to provide access to and deliver high-quality, high-value care. (3) Public Policy Decisions—Information is used by policymakers to expand their capability to monitor and evaluate the impact of system changes on outcomes, quality, access, cost, and use of health care and to devise policies designed to improve the performance of the system. These decisions include those made by Federal, State, and local policymakers and those that affect the entire population or certain segments of the public.

In summary, AHCPR seeks suggestions for agency activities within the framework of priorities set out in the AHCPR strategic plan goals, activities, and customers, as described above.

Dated: March 31, 1999.

John M. Eisenberg,

Administrator.

[FR Doc. 99–9445 Filed 4–14–99; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99040]

Cooperative Agreement for the Development of a National Public Health Information Infrastructure Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year FY 1999 funds for a cooperative agreement program for the development of a national public health information infrastructure. This program addresses the ''Healthy People 2000'' priority area of Educational and Community-Based Programs.

The purpose of this program is to provide State health departments with local and national access to news media for coverage of health emergencies and opportunities to tell the stories of prevention; identify methods to provide health communication to State health departments; and to elicit the coordination and cooperation of other national, public, private, and voluntary agencies in promoting public health information.

B. Eligible Applicant

Assistance may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments and their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Pub. L. 104–65 states that an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately $200,000 is available in FY 1999 to fund this cooperative agreement. It is expected that the award will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Cooperative Activities

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1., below, and CDC will be responsible for conducting activities under 2., below:

1. Recipient Activities:

a. Plan, conduct, and evaluate an annual national conference and, as required, regional conferences. The purpose of these conferences is to provide a forum for continuing education opportunities in public health communications.

b. Publish periodic newsletters to keep State Health Departments informed of the programs, initiatives, and activities of interest to the States related to communication intervention programs that enrich and improve public health.

c. Assess electronic communication networking among State health departments and provide recommendations to States on equipment and financial needs to strengthen communication efforts.

d. Evaluate the media training available for public health professionals and provide recommendations for workshops to all State health departments. Provide assistance to those State health departments wishing to implement media training.

e. Network with key national public health groups and schools to evaluate existing public information material relating to public health programs such as, but not limited to, immunization, tobacco control, tuberculosis, violence and bioterrorism. As needs are identified, regional awareness campaigns will be designed through State health departments.

f. Develop National health communication campaigns and disseminate campaign updates and material to State health departments.

2. CDC Activities:

a. Provide technical assistance and consultation in the area of program development, implementation, and health communication campaigns.

b. Provide technical assistance in the development of an annual conference for State, regional and national exchange of public health information.

c. Provide technical assistance in defining the scope of training needs and proposed training materials to address those needs.

E. Application Content

Use the information in the Cooperative Activities, Other Requirements, and Evaluation Criteria sections to develop the application

content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Application Submission and Deadline

Submit the original and two copies of PHS 5161 (OMB Number 0937–0189). Forms are in the application kit. On or before June 21, 1999, submit the application to: Joanne Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement Number 99040, Centers for Disease Control and Prevention, 2920 Brandywine Road, Suite 3000, Atlanta, Georgia 30341–4146.

Deadline: Application shall be considered as meeting the deadline if it is:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

G. Evaluation Criteria

The application will be evaluated against the following criteria (maximum 100 total points):

1. Background, Need, and Capacity (25 percent): The extent to which the applicant presents data and information documenting the capacity to accomplish the program, positive progress in related past or current activities or programs, and, as appropriate, need for the program. The extent to which current resources demonstrate capability to conduct the program.

2. Goals and Objectives (15 percent): The extent to which the applicant includes goals which are relevant to the purpose of the proposal and feasible to accomplish during the project period, and the extent to which these are specific and measurable. The extent to which the applicant has included objectives which are feasible to accomplish during the budget period and project period, and which address all activities necessary to accomplish the purpose of the proposal.

3. Methods and Staffing (25 percent): The extent to which the applicant provides: (1) A detailed description of proposed activities which are likely to achieve each objective and overall program goals, and which includes designation of responsibility for each action undertaken; (2) a reasonable and complete schedule for implementing all activities; and (3) a description of the roles of each unit, organization, or agency, and evidence of coordination, supervision, and degree of commitment of staff, organizations, and agencies involved in activities.

4. Evaluation (25 percent): The extent to which the proposed evaluation system is detailed, addresses goals and objectives of the program, and will document program process, effectiveness, and impact. The extent to which the applicant demonstrates potential data sources for evaluation purposes and methods to evaluate the data sources, and documents staff availability, expertise, experience, and capacity to perform the evaluation. The extent to which a feasible plan for reporting evaluation results and using evaluation information for programmatic decisions is included.

5. Collaboration (10 percent): The extent to which relationships between the program and other organizations, agencies, and health department units that will relate to the program or conduct related activities are clear, complete and provide for complementary or supplementary interactions. The extent to which coalition membership and roles are clear and appropriate.

6. Budget and Justification (not scored): The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities.

H. Other Requirements

Technical Reporting Requirements Provide CDC with the original plus two copies of:

1. Semiannual Progress reports;

2. Financial status report, no more than 90 days after the end of the budget period;

3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to: Joanne Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention 2920 Brandywine Road, Suite 3000, Atlanta, Georgia 30341–4146.

For descriptions of the following Other Requirements, see Attachment I:

AR–5 HIV Program Review Panel Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions
AR–20 Conference Support

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Section 1704 [42 U.S.C. 300u–3] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance Number is 93.283.

J. Where to Obtain Additional Information

This announcement and other announcements may be downloaded from www.cdc.gov (click on funding)

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave you name and address and will be instructed to identify the Announcement number of interest. Please refer to Program Announcement 99040 when you request information. For a complete program description, information on application procedures, an application package and business management technical assistance, contact: Joanne Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99040, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, GA., 30341–4146, Telephone (404) 488–2717, Email address jcw6@cdc.gov.

For program technical assistance, contact: Linda Leake, Administrative Officer, Office of Communication, Centers for Disease Control and Prevention 1600 Clifton Road, NE, MS D25, Atlanta, Georgia 30333, Telephone: (404) 639–7994, E Mail: ldll@cdc.gov.

Dated: April 9, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–9379 Filed 4–14–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0671]

Bestblood, Ltd.; Opportunity for Hearing on a Proposal to Revoke U.S. License No. 1116

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an

opportunity for a hearing on a proposal to revoke the establishment license (U.S. License No. 1116) and product licenses issued to Bestblood, Ltd., doing business as Optimum Healthcare, Inc., for the manufacture of Whole Blood, Red Blood Cells, Red Blood Cells Frozen, Whole Blood CPD, Red Blood Cells Deglycerolized, and Whole Blood CPDA–1. The proposed revocation is based on the inability of authorized FDA employees to conduct an inspection of this facility, which is no longer in operation.

DATES: The firm may submit written requests for a hearing by May 17, 1999, and any data and information justifying a hearing by June 14, 1999. Other interested persons may submit written comments on the proposed revocation by June 14, 1999.

ADDRESSES: Submit written requests for a hearing, any data and information justifying a hearing, and any written comments on the proposed revocation to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Astrid L. Szeto, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION: FDA is initiating proceedings to revoke the establishment license (U.S. License No. 1116) and product licenses issued to Bestblood, Ltd., doing business as Optimum Healthcare, Inc., 239 Randall St., San Francisco, CA 94131, for the manufacture of Whole Blood, Red Blood Cells, Red Blood Cells Frozen, Whole Blood CPD, Red Blood Cells Deglycerolized, and Whole Blood CPDA–1. Proceedings to revoke the licenses are being initiated because an attempted inspection of the facility by FDA, as required under § 600.21 (21 CFR 600.21), revealed that the firm was no longer in operation.

In a certified, return-receipt letter dated June 16, 1997, FDA notified the Responsible Head of the firm that its attempt to conduct an inspection at Bestblood, Ltd., 239 Randall St., San Francisco, CA 94131, was unsuccessful because the facility was apparently no longer in operation, and requested that the firm notify FDA in writing of the firm's status. This letter was sent to 239 Randall St., San Francisco, CA 94131, and to P.O. Box 843, Cupertino, CA 95054–0843, and each was returned to the agency as undeliverable.

In a certified, return-receipt letter sent to Bestblood, Ltd., dated March 4, 1998, at both addresses mentioned previously and returned as undeliverable, FDA indicated that an attempt to conduct an inspection at the facility was unsuccessful. The letter advised the Responsible Head that, under 21 CFR 601.5(b)(1) and (b)(2), when FDA finds that authorized employees have been unable to gain access to an establishment for the purpose of carrying out an inspection required under § 600.21, or the manufacturing of products or of a product has been discontinued to an extent that a meaningful inspection cannot be made, proceedings for license revocation may be instituted. In the same letter, FDA indicated that a meaningful inspection could not be made at the establishment and issued the firm notice of FDA's intent to revoke U.S. License No. 1116 and announced its intent to offer an opportunity for a hearing.

Because FDA has made reasonable efforts to notify the firm of the proposed revocation and no response was received from the firm, FDA is proceeding under 21 CFR 12.21(b) and publishing this notice of opportunity for a hearing on a proposal to revoke the licenses of the previously mentioned establishment.

FDA has placed copies of the documents relevant to the proposed revocation on file with the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this notice. These documents include: (1) Summary of Findings, May 28, 1997 (Endorsement Form FDA 481), and (2) FDA letters to the Responsible Head dated June 16, 1997, and March 4, 1998. These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Bestblood, Ltd., may submit a written request for a hearing to the Dockets Management Branch by May 17, 1999, and any data and information justifying a hearing must be submitted by June 14, 1999. Other interested persons may submit written comments on the proposed license revocation to the Dockets Management Branch by June 14, 1999. The failure of the licensee to file a timely written request for a hearing constitutes an election by the licensee not to avail itself of the opportunity for a hearing concerning the proposed license revocation.

FDA's procedures and requirements governing a notice of opportunity for a hearing, notice of appearance and request for a hearing, grant or denial of a hearing, and submission of data to justify a hearing on proposed revocation of a license are contained in 21 CFR parts 12 and 601. A request for a hearing may not rest upon mere allegations or denials but must set forth a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses submitted in support of the request for a hearing that there is no genuine and substantial issue of fact for resolution at a hearing, or if a request for a hearing is not made within the required time with the required format or required analyses, the Commissioner of Food and Drugs will deny the hearing request, making findings and conclusions that justify the denial.

Two copies of any submissions are to be provided to FDA, except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. Such submissions, except for data and information prohibited from public disclosure under 21 CFR 10.20(j)(2)(i), 21 U.S.C. 331(j), or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 351 of the Public Health Service Act (42 U.S.C. 262) and sections 201, 501, 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 355, and 371), and under the authority delegated to Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Biologics Evaluation and Research (21 CFR 5.67).

Dated: April 5, 1999.

Mark Elengold,

Deputy Director, Operations, Center for Biologics Evaluation and Research.

[FR Doc. 99–9457 Filed 4–14–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–279]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment.

Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection;

Title of Information Collection: Study to Develop a Classification System for Patients in Inpatient Rehabilitation Hospitals and Exempt Rehabilitation Units;

Form No.: HCFA–R–279 (OMB# 0938–NEW);

Use: To conduct a study using patient and facility characteristics and resource utilization as determined by staff time measurement to develop a classification and payment system for Medicare beneficiaries. This information will be used to develop a classification system for Medicare patients using rehabilitation services in inpatient rehabilitation hospitals and exempt rehabilitation units. This classification system will be referred to as Rehabilitation Resources Groups, Version 2000 (R2G2).

The purpose of this study is to develop, assess, and test this classification system through a representative sample of inpatient rehabilitation hospitals and exempt units (note that throughout this request, we will refer to rehabilitation facilities; these include both freestanding rehabilitation hospitals and exempt rehabilitation units). The principal goal is to determine the extent to which measurable patient characteristics permit classifying patients into identifiable groups that accurately predict the use of resources in these facilities.

Patient characteristics will be collected using the Minimum Data Set for Post Acute Care (MDS–PAC) (previously approved; OMB No. 0938–0720). This instrument collects demographic and clinical information that will be used to develop the classification system. We are requesting utilization of this instrument, as revised and tested to include specific variables designed to collect information on patients using rehabilitation services. Secondary analysis of existing data has provided information used to develop the sampling plan. Medicare administrative files (including the cost reports, OSCAR files, and the Standard Analytic National Claims History 100 percent file) were used to develop the sampling frame for this study.

We will be using a staff time measurement study to collect information within the sampled rehabilitation facilities to assess the resources utilized by Medicare beneficiaries. While the staff time measurement has been used in other studies to develop both resource utilization and payment methodologies (i.e., staff time measurement was used to develop the prospective payment system for skilled nursing homes), this is the first time that direct, on-site information will be collected regarding resource utilization in rehabilitation facilities.

The methodology is similar to the Resource Utilization Groups (RUG) methodology used by the Health Care Financing Administration (HCFA) to identify patient characteristics related to variance in patients' needs for resources in skilled nursing facilities (SNFs) and to develop the SNF prospective payment system (PPS).

HCFA is requesting clearance of the study, including the sample, sample selection methodology, and data collection plans, including staff time measurement and use of the revised MDS–PAC. This study will enable HCFA to develop, test, and assess a classification system for inpatient rehabilitation hospitals and exempt rehabilitation units:

Frequency: On occasion;

Affected Public: Business or other for-profit, and Not-for-profit institutions;

Number of Respondents: 4,000;

Total Annual Responses: 4,000;

Total Annual Hours: 6,800.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 8, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–9423 Filed 4–14–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodation, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: May 6–7, 1999.

Closed: May 6, 1999, 10:30 a.m. to recess.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Open: May 7, 1999, 8:00 a.m. to adjournment.

Agenda: Presentation of NIMH Director's Report and discussion of NIMH program and policy issues.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Jane A. Steinberg, PhD, Executive Secretary, Director, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–3367.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 8, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–9367 Filed 4–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Trauma and Burn.

Date: April 13, 1999.

Time: 1:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NIGMS, Office of Scientific Review, Natcher Building, Room 1AS19K, Bethesda MD 20892 (Telephone Conference Call).

Contact Person: Bruce K. Wetzel, Phd, Scientific Review Administrator, Office of Scientific Review, NIGMS, Natcher Building, Room 1AS–19, Bethesda, MD 20892, (301) 594–3907.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Trauma and Burn.

Date: April 14, 1999.

Time: 1:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NIGMS, Office of Scientific Review, Natcher Building, Room 1AS19K, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Bruce K. Wetzel, Phd, Scientific Review Administrator, Office of Scientific Review, NIGMS, Natcher Building, Room 1AS–19, Bethesda, MD 20892, (301) 594–3907.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: April 8, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–9368 Filed 4–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: May 11–12, 1999.

Time: May 11, 1999, 8:00 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Antonio Noronha, PhD, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–7722, anoronha@willco.niaaa.nih.gov.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: May 12–13, 1999.

Time: May 12, 1999, 1:00 pm to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, Twinbrook Room, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Antonio Noronha, PhD, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–7722, anoronha@willco.niaaa.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 8, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–9369 Filed 4–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, R13 Conference Grant.

Date: May 4, 1999.

Time: 3:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Solar Building, Room 1A2, 6003 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Janet T. Terner, Program Analyst, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C01, 6003 Executive Boulevard, MSC 7610, Bethesda, MD 20892–7610, 301–402–4598.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 8, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–9370 Filed 4–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: April 14, 1999.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David Chananie, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–1340.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientific Development Award, Scientific Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 8, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–9371 Filed 4–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: April 9, 1999.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sheila O'Malley, MA, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National institute of Mental Health Special Emphasis Panel.

Date: April 13, 1999.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sheila O'Malley, MA, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 8, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–9372 Filed 4–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting; SAMHSA Special Emphasis Panels

Pursuant to Pub. L. 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panels I in May 1999.

A summary of the meeting and a roster of the members may be obtained from: Ms. Coral Sweeney, SAMHSA, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–2998.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: May 3–4, 1999.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Closed: May 3, 1999, 8:30 a.m. to Adjournment; May 4, 1999, 8:30 a.m. to Adjournment.

Panel: Substance Abuse and Mental Health Services Administration State Reform Grants, SM99–004.

Contact: Ferdinand Hui, Room 17–89, Parklawn Building, Telephone: 301–443–9919 and FAX: 301–443–3437.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: May 11–13, 1999.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Closed: May 11–13, 1999, 8:30 a.m.–5:00 p.m. Substance Abuse and Mental Services Administration, Action Grant Program, Phase II.

Contact: Boris Aponte, Room17–89, Parklawn Buiding, Telephone: 301–443–2290 and FAX: 301–443–1587.

Panel: Substance Abuse and Mental Health Services Administration, Action Grant Program, Phase II.

Dated: April 9, 1999.

Sandi Stephens,

Team Leader, Extramural Activities Team, Substance Abuse and Mental Health Services Administration.

[FR Doc. 99–9409 Filed 4–14–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting; SAMHSA Special Emphasis Panels

Pursuant to Pub. L. 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in November.

A summary of the meeting may be obtained from: Ms. Coral M. Sweeney, SAMHSA, Division of Extramural Activities Policy and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301)443–2998.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. The discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(3),(4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: May 17–18, 1999.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Committee Name: SAMHSA Special Emphasis Panel II.

Closed: May 17, 1999, 8:30 a.m.–5:00 p.m., May 18, 1999 8:30 a.m.–Adjournment.

Contact: Ferdinand Hui, Room 17–89, Parklawn Building, Telephone: (301) 443–9919 and FAX (301) 443–1587.

Meeting Date: May 6–7, 1999.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Closed: May 6, 1999, 8:30 a.m.–5:00 p.m., May 7, 1999 8:30 a.m.–Adjournment.

Contact: Michael Koscinski, Room 17–89, Parklawn Building, Telephone: (301)443–6094 and FAX: (301)443–1587.

Dated: April 9, 1999.

Sandi Stephens,

Team Leader, Extramural Activities Team, Substance Abuse and Mental Health Services Administration.

[FR Doc. 99–9410 Filed 4–14–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

Notice of Intent to Prepare an Environmental Impact Statement in Anticipation of Receiving a Permit Application to Incidentally Take Threatened and Endangered Species in Association with a Multiple Habitat Conservation Plan for Northwestern San Diego County, California

AGENCY: Fish and Wildlife Service, DOI.

ACTION: Notice of Intent.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is considering approval of a Multiple Habitat Conservation Plan (Plan) and issuance of an Endangered Species Act Incidental Take Permit. The Plan is being submitted by the San Diego Association of Governments (Association of Governments) and the Plan Advisory Committee representing seven participating cities in northwestern San Diego County, California. The seven participating cities are Carlsbad, San Marcos, Encinitas, Escondido, Oceanside, Solana Beach, and Vista. This long-term plan will accompany a future application to the Service for a permit under section 10(a)(1)(B) of the Endangered Species Act that would authorize incidental take of listed species and unlisted species that may be listed in the future. In response to the Plan, the Service intends to prepare a joint programmatic and project-level Environmental Impact Statement/Environmental Impact Report (Statement/Report) pursuant to the National Environmental Policy Act and the California Environmental Quality Act. The Plan covers an area of approximately 186 square-miles in northwestern San Diego County. The Plan addresses numerous sensitive plant and animal species and their habitats. The Plan creates a process for the issuance of permits and other authorizations under the Federal Endangered Species Act, California Endangered Species Act, and the California Natural Community Conservation Planning Act. This notice describes the proposed action and possible alternatives, notifies the public of a scoping meeting, invites public participation in the scoping process for preparing the joint Statement/Report, solicits written comments, and identifies the Service official to whom questions and comments concerning the proposed action and the joint Statement/Report may be directed.

DATES: A public scoping meeting will be held on May 5, 1999 from 6:00 to 8:00 p.m. at Encinitas City Hall (Poinsettia Room), 505 South Vulcan, Encinitas, California. Oral comments will be received during the scoping meeting. Written comments are encouraged and should be received on or before May 17, 1999.

ADDRESSES: Information, comments, or questions related to preparation of the joint Statement/Report and the National Environmental Policy Act process should be submitted to Sherry Barrett, Assistant Field Supervisor, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Written comments may also be sent by facsimile to telephone (760) 918–0638.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Vanderwier, Fish and Wildlife Biologist, or Nancy Gilbert, Division Chief, at the above Carlsbad address, telephone (760) 431–9440. Persons wishing to obtain background material should contact Janet Fairbanks at the San Diego Association of Governments, 401 B Street, Suite 800, San Diego, California 92101, telephone (619) 595–5370.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Documents will also be available for public inspection by appointment during normal business hours (8 a.m. to 5 p.m., Monday through Friday) at the Association of Governments office and at local libraries located in the seven participating cities.

Background

Listed wildlife species are protected against ''take'' pursuant to section 9 of the Act. That is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or attempt to engage in such conduct (16 USC 1538). The Service, however, may issue permits to take listed animal species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22 and 17.32. In anticipation of applying for an incidental take permit, the Association of Governments and participating cities are developing a Plan. The Plan study area comprises seven incorporated cities

in northwestern San Diego County. The northern boundary of the Plan study area is Marine Corps Base Camp Pendleton; the Pacific Ocean forms the western boundary; and unincorporated County of San Diego borders most of the study area on the east and south. Unincorporated portions of the county, including several areas completely surrounded by incorporated cities, are excluded from the study area and will be planned by the county under the North County Subarea of the Multiple Species Conservation Plan.

The 118,852-acre Plan study area is largely developed, with approximately 30 percent consisting of vacant lands that still support natural vegetation communities. The largest blocks of natural vegetation occur in northern Escondido, and in the hilly areas of southeastern Carlsbad and southwestern San Marcos. Other relatively large blocks of habitat occur along the northern boundary of Oceanside, and in scattered areas in eastern and central Carlsbad, northern San Marcos, and southern Escondido. Otherwise, natural habitats in the Plan study area are highly fragmented and occur primarily in small, scattered patches surrounded by development or agriculture.

The goals of the Plan are to:

1. Maintain the range of natural biological communities and species native to the region, and conserve viable populations of endangered, threatened, and key sensitive species and their habitats, thereby preventing local extirpation or species extinction.

2. Create greater certainty for economic and urban development by identifying where new development should and should not occur, and encourage investment by establishing a legal and procedural framework that streamlines the permitting process and provides a reliable basis for economic decision-making.

3. Protect the quality of life for local residents by maintaining the area's scenic beauty, natural biological diversity, and recreation opportunities.

The Plan proposes a new process for wildlife and habitat conservation, and for implementation of the Federal and State of California Endangered Species Acts, which relies on existing local agency land use review and approval authority. The new process places conservation responsibilities on local jurisdictions, based on their ability to implement a segment of the Plan for their jurisdiction. Implementation of the Plan will occur through individual subarea conservation plans prepared for each of the seven participating jurisdictions. In exchange for these coordinated conservation plans, local jurisdictions will receive from the Service permits for the taking of federally-listed species, and unlisted species should they become listed, based on their subarea plans and implementing agreements. A list of covered animal and plant species that would receive take authorization is incorporated in the Plan, including species that are federally or state-listed, proposed for listing, candidates for listing, or sensitive within the region.

The lands identified for open space and habitat preservation are located within the Focused Planning Area. The Focused Planning Area was cooperatively designed by the Association of Governments and the seven participating jurisdictions in the Plan study area, in consultation with the Service, the California Department of Fish and Game, and the Plan Advisory Committee based on biological, ownership, and land use criteria. These participants have spent several months developing ''hard line'' preserves, indicating lands that will be conserved and managed for biological resources, and ''soft line'' planning areas, within which preserve areas will ultimately be delineated based on further data and planning.

Several objectives were incorporated into the process of designing the Focused Planning Area: (1) conserve as much of the biologically most important habitat lands remaining in the subregion as possible, in a system that minimizes preserve fragmentation and maximizes conservation of covered species; (2) maximize the inclusion of public lands within the preserve; (3) maximize the inclusion of lands already conserved as open space, where appropriate; and (4) maintain individual property rights and economic viability for the subregion.

Although the Association of Governments will prepare the draft Statement, the Service will be responsible for its content and scope. In addition, the Association of Governments will act as the lead agency for the preparation of the Report.

Environmental documentation will be included in the joint Statement/Report for amendments to a variety of planning documents for the seven participating jurisdictions. The proposed amendments would incorporate the preserve boundaries of the Plan into adopted land use plans as described in the individual subarea plans and implementing agreements. Actions proposed by these seven cities that will be addressed in the joint Statement/Report include, but are not limited to, amendments to general plans, local coastal programs, and zoning ordinances.

The Statement/Report will consider the proposed action (issuance of a Section 10(a)(1)(B) Endangered Species Act permit for the Plan) and a reasonable range of alternatives. Potential alternatives may be derived from preserve design scenarios being considered and include a Minimal Acquisition Scenario, Enhanced Conservation/Acquisition Scenario, Additional Core Gnatcatcher Conservation Scenario, Biological Core and Linkage Area Scenario, and No Project (No Preserve) Scenario.

Environmental review of the Plan will be conducted in accordance with the requirements of the 1969 National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act regulations (40 CFR parts 1500–1508), other appropriate regulations, and Service procedures for compliance with those regulations. This notice is being furnished in accordance with Section 1501.7 of the National Environmental Policy Act to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the joint Statement/Report.

Comments and participation in the scoping process are solicited. The primary purpose of the scoping process is to identify rather than to debate the significant issues related to the proposed action. Interested persons are encouraged to attend the public scoping meeting to identify and discuss issues and alternatives that should be addressed in the joint Statement/Report. The proposed agenda for this facilitated meeting includes a summary of the proposed action; status of and threats to subject species; and tentative issues, concerns, opportunities, and alternatives. Additional public meetings will be conducted on later dates to provide more opportunities to comment on the draft Statement/Report.

Dated: April 6, 1999.

Elizabeth H. Stevens,

Deputy Manager, California/Nevada Operations Office.

[FR Doc. 99–9381 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1220–00; Closure Notice No. NV–030–99–002]

Temporary Closure and Restrictions on Public Lands; Silver Saddle Ranch; Carson City, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: The Manager, Carson City Field Office, announces a temporary closure and restrictions on acquired lands in Carson City, Nevada, known as the Silver Saddle Ranch. This action is taken to protect ranch buildings, facilities and sensitive meadow and riparian resources from vandalism and damage.

SUMMARY: In 1997, the Bureau of Land Management completed a land exchange resulting in the transfer of the Silver Saddle Ranch in Carson City from private to public ownership. The ranch includes residential buildings, barns, fences and sensitive river and meadow lands. In cooperation with the municipality of Carson City, development of a long-term management plan is underway which will provide for adequate on site management and protection of these features. Until this plan can be completed, certain interim restrictions and closures are necessary. Acquired lands on the west side of the Carson River are temporarily closed to public use. Lands on the east side of the Carson River are open to public use with restrictions on vehicle use, shooting and overnight camping.

EFFECTIVE DATES: These restrictions go into effect immediately and will remain in effect until the management plan is completed and implemented, or until the authorized officer determines these restrictions no longer are needed.

FOR FURTHER INFORMATION CONTACT: Chris Miller, Outdoor Recreation Planner, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89706. Telephone (775) 885–6148.

SUPPLEMENTARY INFORMATION: The public lands affected by these restrictions are described as follows:

Mt. Diablo Meridian

T. 15 N., R 20 E.,
Sec. 22: SE¼SE¼;
Sec. 26: SW¼NE¼, W½, W½SE¼;
Sec. 27: NE¼, NE¼SE¼;
Sec. 35: NW¼NE¼.

EXCEPTING THEREFROM that portion on the NE¼NE¼NW¼ of section 26 as conveyed to Carson City, and all that portion lying below the natural ordinary High water line of the Carson River.

Lands on the west side of the Carson River are closed to public use and entry. The exceptions to this closure include emergency, utility or law enforcement personnel, Carson City and BLM officials conducting business, participants in tours or events sponsored by the BLM or Carson City, and others authorized in writing by the Authorized Officer of the BLM. The restrictions do not apply to Carson City public roads.

Lands on the east side of the Carson River are open to public recreation uses with the following exceptions: (1) Motorized vehicle use is limited to designated roads and trials; (2) lands are closed to shooting and open to day use only, consistent with previous orders for use on public lands administered by the Carson City Field Office.

The authorities for these restrictions are 43 CFR 8341.2 and 8364.1. Any person failing to comply with the closure or restrictions may be subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of 18 USC 3571, or both.

Dated: April 8, 1999.

Karl Kipping,

Associate Manager,

Carson City Field Office.

[FR Doc. 99–9415 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1330–01; IDI –030–98–035]

Notice of Availability of the Record of Decision for the Caribou National Forest Phosphate Leasing Proposal (FEIS 98–0087; Idaho)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The Dairy Syncline Tract and Manning Creek Tract are two separate Federal phosphate tracts proposed for competitive leasing. They are located within the Caribou National Forest in Caribou County in southeast Idaho. The Manning Creek Tract is located in Township 9 South, Range 45 East, Boise Meridian, about 10 air miles southwest of Afton, Wyoming. The Dairy Syncline Tract is located in Township 9 and 10, Range 44 East, about 12 air miles southeast of Soda Springs, Idaho. The Bureau of Land Management and the U.S. Forest Service jointly prepared the Draft Environmental Impact Statement and the Final Environmental Impact Statement related to this leasing proposal. The Draft Environmental Impact Statement was released July 18, 1997. The Notice of Availability appeared in the **Federal Register** on August 1, 1997. No new issues or viable alternatives were identified during the review period so revisions to the Draft were not required. The Final Environmental Impact Statement for the proposed leasing of Federal phosphate reserves in the Dairy Syncline and Manning Creel Tracts was released on February 23, 1998. The Final consists if a selenium update, Chapter 10 of the Final Environmental Impact Statement which describes the public comments and responses, and the Draft Environmental Impact Statement which was released in July, 1997. The Notice of Availability of the Final Environmental Impact Statement was published in the **Federal Register** on March 27, 1998. In accordance with 43 CFR 1502.2, a Record of Decision was prepared by the Bureau of Land Management and signed on March 15, 1999. BLM has recommended leasing only portions of each of the two tracts. With this decision, 2,342.27 acres of the 3,259 acre Dairy Syncline Tract and 880 acres of the 1,120 acre Manning Creek Tract will be available for leasing. The reduced Manning Creek Tract provides for a natural, undisturbed corridor for wildlife to move through the area. This decision is consistent with the Caribou National Forest Land and Resource Management Plan and with the Bureau of Land Management Pocatello Resource Management Plan. Mining will not be permitted on these two tracts until NEPA requirements have been met, site-specific Best Management Plans have been developed, and the phosphate lessee can demonstrate that mining can be conducted without releasing harmful quantities of hazardous material into the environment. Proposed Best Management Practices must be acceptable to BLM and the surface managing agencies prior to approval of any mine plan. The ''Stipulations for Lands of the National Forest System under Jurisdiction of Department of Agriculture'' and the Forest Service ''Notice to Phosphate Lessees'' shall be part of each lease offered and apply to the lessee or its legal successors. Copies of the Record of Decision have been mailed to interested parties. Public reading copies will be available for review at the BLM Pocatello Resource Area Office, 1111 N. 8th Avenue, Pocatello, ID 83201–5789.

FOR FURTHER INFORMATION CONTACT: Peter Oberlindacher, BLM Idaho State Office, 1387 South Vinnell Way, Boise, Idaho 83709, telephone No. (208) 373–3884.

DATES: The Record of Decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. If an appeal is taken, the notice of appeal must be filed with the Bureau of Land Management. Idaho State Office, 1387 S.

Vinnell Way, Boise Idaho 83709–1657 on or before 30 days from the publication of the Record of Decision in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The modified Dairy Syncline Tract to be made available for leasing as a single and separate parcel consists of the following lands:

Boise Meridian

T. 9 S., R.44 E.
Sec.17: SE¼SE¼;
Sec.18: SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼;
Sec.19: NE¼, N½SE¼, SE¼SE¼;
Sec.20: All;
Sec.21: W½NW¼, SE¼NW¼;
Sec.28: SW¼SW¼;
Sec.29: E½, E½NW¼, NW¼NW¼;
Sec.32: NE¼, N½SE¼;
Sec.33: W½NW¼, SW¼.
T.10 S., R.44 E.
Sec.4: Lots 3,4, and 6, SE¼NW¼.
Totaling 2,342.27 acres.

The modified Manning Creek Tract to be made available for leasing as a single and separate parcel consists of the following lands:

Boise Meridian

T. 9 S., R.45. E.
Sec. 13: SE¼W¼, S½SE¼;
Sec. 23: SE¼SE¼;
Sec. 24: N½NE¼, SW¼NE¼, E½NW¼, SW¼NW¼, SW¼, NW¼SE¼;
Sec.25: NW¼NW¼;
Sec.26: NE¼, SE¼NW¼, NW¼SE¼.
Totaling 880 acres.

Dated: April 7, 1999.

Jimmie Buxton,

Branch Chief, Lands and Minerals.

[FR Doc. 99–9384 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–66–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Environmental Statements; Availability, Etc; Diamond Mountain Resource Area

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of availability of the proposed plan amendment environmental assessment to the Diamond Mountain resource area resource management plan.

SUMMARY: The Bureau of Land Management (BLM), Vernal Field Office has completed an Environmental Assessment (EA) and issued a Finding of No Significant Impact (FONSI) for the Proposed Pelican Lake Plan Amendment to the Diamond Mountain Resource Area Resource Management Plan (DMRA–RMP). The Proposed Plan Amendment would modify the DMRA–RMP's present priority management level classifications within the Pelican Lake planning amendment area through reclassification of about 2,078.20 acres of public land from their present Level 4, Open Management classification to level 3, Active Management classification. The 160 acres of public land classified as Level 1, Most Restrictive Management, the 1,794.66 acres of public land classified as Level 2, Careful Management, and the 865.75 acres of public land classified as level 3, Open Management would not be reclassified. Multiple use of the public land within the planning area would continue in a manner that is compatible, to the extent possible, with the objectives of the Ouray National Wildlife Refuge.

DATES: The 30 day protest period for this proposed plan amendment will commence on April 15, 1999. Protests must be received on or before May 15, 1999.

ADDRESSES: Protests must be addressed to the Director (WO–210) Bureau of Land Management, Attn: Brenda Williams, 1849 C Street, NW, Washington, DC 20240 within 30 days after the date of publication of this Notice of Availability.

FOR FURTHER INFORMATION CONTACT: Peter Kempenich, Natural Resource Specialist, Vernal District Field Office, at 170 South 500 East, Vernal, Utah 84078, (435) 781–4432. Copies of the proposed Plan Amendment EA are available for review at the Vernal Field Office.

SUPPLEMENTARY INFORMATION: This action is announced pursuant to Section 202(a) of the Federal Land Policy and Management Act (1976) and 43 CFR Part 1610. This Proposed Amendment is subject to protests by any party who has participated in the planning process. Protest must be specific and contain the following information:

—The name, mailing address, phone number, and interest of the person filing the protest.
—A statement of the issue(s) being protested.
—A statement of the part(s) of the proposed amendment being protested and citing pages, paragraphs, maps et cetera, of the Proposed Plan Amendment.
—A copy of all documents addressing the issue(s) submitted by the protestor during the planning process or a reference to the date when the protester discussed the issue(s) for the record.
—A concise statement as to why the protester believes the BLM State Director is incorrect.

Dated: March 30, 1999.

G. William Lamb,

State Director, Utah.

[FR Doc. 99–9383 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–D9–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–1410–00]

Alaska Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Alaska Resource Advisory Council Meeting.

SUMMARY: The BLM Alaska Resource Advisory Council will conduct an open meeting Tuesday, May 11, 1999, from 9:30 a.m. until 4:30 p.m. and Wednesday, May 12, 1999, from 9 a.m. until 3 p.m. The council will begin the process of defining standards for management of natural resources on public lands in Alaska. As part of this process, the council will take public comment on resource issues of concern.

The meeting will be held at the BLM Alaska State Office, located on the 4th floor of the Anchorage Federal Office Building at 7th and C Street. The entire meeting is open to the public with public comment taken from 1–2 p.m. Tuesday, May 11. Written comments may be submitted at the meeting or mailed to the address below.

ADDRESS: Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, AK 99513–7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, (907) 271–5555.

Dated: April 8, 1999.

Sally Wisely,

Acting State Director.

[FR Doc. 99–9378 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–61258]

Notice of Realty Action, Direct Sale of Public Land, Pershing County, Nevada

SUMMARY: The following described land has been found suitable for direct sale under Section 203 of the Federal Land

Policy and Management Act of October 21, 1976 (43 U.S.C. 1713). The land is hereby classified for disposal in accordance with Executive Order 6910 and the Act of June 28, 1934, as amended and will be sold at not less than fair market value:

Mount Diablo Meridian, Nevada

T. 32 N., R. 34 E., Sec. 5, S½SE¼SW¼, SW¼SW¼SE¼;
Containing 30.00 acres more or less.

The lands are not required for federal purposes. Disposal is consistent with the Bureau's planning for this area and would be in the public's interest. The land is being offered by direct sale to Howard E. Harris and Terry A. Harris, DBA Murt-Higgins Mine Management Partnership. The mineral estate is vested in a third party and therefore can not be offered in this sale.

The land will not be offered for sale until at least 60 days after publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ken Detweiler, Realty Specialist, Bureau of Land Management, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445 (775) 623–1500.

SUPPLEMENTAL INFORMATION: The public lands are being offered to Howard and Terry Harris, DBA Murt-Higgins Mine Management Partnership, since they have occupied and developed the site. The Harrises developed the site under the auspices of the general mining law, however, that was determined infeasible since the mineral estate is held by a private third party. The proposed sale would allow the Harrises to keep their property and material on the site. Some of the material on site consists of precious metals refinery slags and powders that contain hazardous substances. Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) requires a notice when hazardous substances have been stored on the property. The following notice describes the material stored on the site in compliance with the CERCLA: Approximately 520 tons, of slag and powder from precious metal refining, have been stored on the site since 1989. Some of the slag and powder show a toxicity characteristic for the metals chromium, selenium, and lead.

Since the property has been developed, the patent would contain a solid waste/hazardous substance(s) statement indemnifying the United States. The above described land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above cited statutes, for 270 days from the date of publication of this notice in the **Federal Register**, or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

A PATENT, WHEN ISSUED, WILL CONTAIN THE FOLLOWING RESERVATION TO THE UNITED STATES;

A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

AND WILL BE SUBJECT TO:

1. Those rights for communication line purposes which have been granted to Bell Telephone Company of Nevada by Right-of-way N–12660, under the Act of March 4, 1911 (43 U.S.C. 961).

2. An easement for a power transmission line granted to Sierra Pacific Power Company from Southern Pacific Land Company by Deed No. 4151–F, recorded in Pershing County, Nevada, Book #14 page 71.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Winnemucca Field Office, Bureau of Land Management, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: April 7, 1999.

Les W. Boni,

Acting Winnemucca Field Manager.

[FR Doc. 99–9416 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–100–99–1040–00]

Notice of Special Recreation Restrictions, Missoula, MT

AGENCY: Department of Interior, Bureau of Land Management.

ACTION: Notice of special recreation restrictions and rules addressing camping, motorized vehicle use, public safety, and resource protection on public lands.

SUMMARY: This notice places restrictions on recreation use on public lands located within 1/4 mile on either side of the Blackfoot River extending from Johnsrud Park upstream for approximately 10 miles. Actions are implemented under the authority of 43 CFR 8364.1 and 8372.0–7.

SUPPLEMENTARY INFORMATION: The restricted public lands are part of the Blackfoot River Recreation Corridor which was established in the 1970s. The Blackfoot River Recreation Corridor is a multi-cooperative partnership consisting of private landowners, the Montana Fish, Wildlife and Parks, and the Bureau of Land Management. This partnership was established to provide protection of the natural resources, private property and to provide public safety along 26 miles of free flowing Blackfoot River.

In 1998, the Bureau of Land Management began acquiring land within the corridor. When this acquisition is completed, the Bureau of Land Management will manage approximately 12,000 acres of land upstream from Johnsrud Park. The Bureau of Land Management has started site specific planning for this area. Plans should be completed within two years. The objective of these emergency restrictions is to have regulations in place during the interim planning phase. The Bureau of Land Management stated in its June 1997 Lower Blackfoot River Assembled Land Exchange Environmental Assessment (MT–074–07–06) that ''recreation along the Blackfoot River would continue to be managed under the existing Blackfoot River Recreation Corridor Landowner's Agreement.'' Implementing the following regulations will establish consistency with the existing Montana Fish, Wildlife and Parks Blackfoot River Recreation Corridor rules. To reduce damage to natural and cultural resources and to provide for public safety, the Bureau of Land Management under 43 CFR 8364.1 prohibits the following on the above described public lands:

1. Camping outside of designated sites or areas.

2. Lighting or maintaining a fire except in designated areas or established government fire rings.

3. Operating a motor vehicle off of a designated trail, road, or route.

4. Collecting firewood for other than on site use.

5. Discharging a firearm or projectile except when and where specifically allowed.

6. Lighting a firework.

7. Violating a posted regulation pertaining to the protection of natural resources or public safety.

8. Occupying or camping at an area longer than seven days during any 30-day period.

Exemptions from these emergency regulations may be authorized by the Bureau of Land Management.

EFFECTIVE DATES: These restrictions will go into effect April 15, 1999. The restrictions shall remain in effect pending approval of a site specific recreation management plan for these public lands. These restrictions can be rescinded or modified by the authorized officer.

PENALTIES: Any person who knowingly and willfully violates the regulations under 43 CFR 8364.1 may be subject to a fine or mandatory court appearance before a U.S. Magistrate.

FOR FURTHER INFORMATION CONTACT: Nancy Anderson, Missoula Field Office, 3255 Fort Missoula Road, Missoula, Montana 59804, (406) 329–3914.

Dated: April 9, 1999.

Nancy T. Anderson,

Field Manager.

[FR Doc. 99–9422 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–020–09–5101–00–J206, U–76985]

Notice of Intent to Prepare a Plan Amendment to the Pony Express Resource Management Plan (RMP)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to prepare a plan amendment to the Pony Express Resource Management Plan (RMP).

SUMMARY: The Bureau of Land Management (BLM), Salt Lake Field Office, Utah is starting a plan amendment process to the RMP which may allow an exception to the Transportation and Utility Corridor Decision for a railroad and related facilities outside a designated corridor. The railroad would serve the proposed Private Fuel Storage (PFS) nuclear storage site on the Goshute Indian Reservation.

DATES: The comment period for identification of issues for the potential plan amendment will commence on April 15, 1999. Comments must be submitted on or before May 30, 1999. Two scoping meetings focusing on environmental issues associated with the amendment will be held on April 29, 1999: from 8 a.m. to 11 a.m. at the Little America Inn, Grand Ballroom A, 500 South Main Street, Salt Lake City, UT 84101; from 6:30 p.m. to 9:30 p.m. at Tooele High School, Auditorium, 240 West Second Street, Tooele, UT 84074.

ADDRESSES: Comments on the BLM plan amendment should be sent to Bureau of Land Management, Salt Lake Field Office, 2370 South 2300 West, Salt Lake City, UT 84119.

FOR FURTHER INFORMATION CONTACT: For Information on the BLM plan amendment contact Leon Berggren, Resource Advisor, telephone (801) 977–4350. Existing planning documents and information are available at the above address.

SUPPLEMENTARY INFORMATION: The Salt Lake Field Office, BLM, received an application from PFS for a railroad line on the west side of Skull Valley, and is cooperating with the Nuclear Regulatory Commission (NRC) by providing an analysis of the railroad and plan amendment for inclusion into an environmental impact statement to be prepared by NRC. The proposed BLM amendment would consider an exception to the Transportation and Utility Corridor Decision, to allow a right-of-way for a railroad and related facilities to PFS outside a designated corridor. Issues identified for the railroad access include: fire, rangeland health, noxious weeds, cultural resources, wildlife, wild horses, wetlands, historic trails, wilderness study areas, recreation, visual, access, minerals, geology, and threatened and endangered plants. Public participation is being sought at this initial stage in the planning process to ensure the RMP amendment addresses all issues, problems, and concerns from those interested in the management of lands under the jurisdiction of the Salt Lake Field Office.

Mike Pool,

Acting State Director.

[FR Doc. 99–9382 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–09–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–09–1420–00]

Notice of Filing of Plat of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below will be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, on April 30, 1999.

New Mexico Principal Meridian, New Mexico

T. 15 N., R. 12 E., accepted March 24, 1999, for Group 947 NM.

Indian Meridian, Oklahoma

T. 29 N., R. 25 E., accepted January 29, 1999, for Group 77 OK.

T. 23 N., R. 10 E., accepted Janaury 29, 1999, for Group 925 NM; and Protraction Diagam for Townships 11 and 12 North, Ranges 4 and 5 East, NM, have been officially filed as of this date, April 1, 1999.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, of the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: April 1, 1999.

Stephen W. Beyerlein,

Acting Chief Cadastral, Surveyor For New Mexico.

[FR Doc. 99–9426 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–957–00–1420–00: GP–0159]

Filing of Plats of Survey: Oregon/ Washington

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 38 S., R. W., accepted January 11, 1999

T. 39 S., R. 4 E., accepted December 18, 1998
T. 18 S., R. 27 E., accepted January 22, 1999
T. 37 S., R. 3 W. accepted January 22, 1999
T. 38 S., R. 3 W., accepted January 15, 1999
T. 39 S., R. 1 W., accepted December 28, 1998
T. 34 S., R. 6 W., accepted January 26, 1999
T. 38 S., R. 2 W., accepted January 22, 1999

Washington

T. 9 N., R. 27 E., accepted December 23, 1998

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey, and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (1515 S.W. 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: April 1, 1999.

Robert D. DeViney, Jr.

Chief, Branch of Realty and Records Services.

[FR Doc. 99–9417 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Ridgewater Water Distribution System Project in Wyoming

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of application for grant funding; public comment period on request to fund the Ridgewater project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming's application requests $76,265 from the Abandoned Mine Reclamation Fund to pay approximately 29 percent of the cost of rebuilding the Ridgewater Improvement District water distribution system in Converse County, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Ridgewater project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4:00 p.m., m.s.t., May 17, 1999.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East ''B'' Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusively authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR Parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of then. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to evaluate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it will address all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to

undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Ridgewater funding request include Wyoming Statute 35–11–1201 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund Part of the Cost of Rebuilding the Ridgewater Distribution System

The Wyoming Department of Environmental Quality submitted to us a grant application dated December 21, 1998. In that application, Wyoming asked for $76,265 that it will use to pay for part of the cost of rebuilding the Ridgewater Improvement District water distribution system in Converse County, Wyoming. This water distribution system is a public facility in a community impacted by coal mining activities. The requested funding is 29 percent of the project's total cost. Money for the balance of the project cost will come from State loan and district water user assessments and reserves.

The Governor of Wyoming certified the need and urgency to fund the Ridgewater Improvement District project before the State's remaining inventory of non-coal reclamation work is finished as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal mining activities. The Ridgewater Improvement District was developed during the boom period when inadequate regulation resulted in poorly designed water and sewer systems. As a result, current distribution lines are too small to provide for the District's fire suppression services. The District also has wastewater treatment problems. Wastewater potentially can infiltrate drinking water lines due to poor line conditions.

The project will mitigate the impacts of rapid industrial growth by providing safe drinking water and fire suppression capability in the District. The Governor's certification states that the current need for District fire suppression capability and concern for wastewater infiltrating drinking water supplies warrants funding this project before the State reclaims its remaining inventory of non-coal projects.

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically subsections 875.15(e) (1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Ridgewater Improvement District project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of sections 875.15(e) (1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do if You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of rebuilding the Ridgewater water distribution system. You are welcome to comment on the project. If you do, please give us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: April 7, 1999.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 99–9412 Filed 4–14–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Antitrust Division

Agency Information Collection Activities: Comment Request

ACTION: Request OMB emergency approval; Department of Justice Federal coal lease review information.

The Department of Justice, Antitrust Division, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by April 23, 1999. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 90 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken.

All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Jill A. Ptacek, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, Room 536, 325 7th Street, NW., Washington, DC 20530.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *Title of the form/collection:* Department of Justice Federal Coal Lease Review Information.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Forms ATR–139, ATR–140. Antitrust Division, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None.

The Department of Justice evaluates the competitive impact of issuances, transfers and exchanges of Federal coal leases. These forms seek information regarding a prospective coal lessee's coal reserves and the reserves subject to the federal lease. The Department uses this information to determine whether the lease transfer is consistent with the Antitrust laws.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20 responses per year at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 40 annual burden hours.

If Additional Information Is Required Contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: April 12, 1999.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 99–9414 Filed 4–14–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Alien address report card.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until June 14, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms or information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement without change of previously approved collection.

(2) *Title of the Form/Collection:* Alien Address Report Card.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–104. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is used by aliens to report their current address, upon a ten-day notice, only when required by the Attorney General under section 265 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1 response at 5 minutes (.083) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1 annual burden hour.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: April 9, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–9346 Filed 4–14–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Certificate of satisfactory pursuit.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' from June 14, 1999.

Written comments and suggestions from the public and affected agencies

concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement without change of a previously approved collection.

(2) *Title of the Form/Collection:* Certificate of Satisfactory Pursuit.

(3) *Agency form number, if any, and the applicable component sponsoring the collection:* Form I–699. Office of Adjudications, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The Service will use this form to verify that a certified course provider has supplied the required instructions to temporary resident aliens, in compliance with Public Law 99–603 and Public Law 100–204, section 902.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at 10 minutes (.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 16,600 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact Mr. Robert B. Briggs, Clearance Officer, U.S. Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center Building, 1001 G Street, NW., Washington, DC 20530.

Dated: April 9, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–9347 Filed 4–14–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Inter-Agency Alien Witness and Informant Record.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' from June 14, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement without change of a previously approved collection.

(2) *Title of the Form/Collection:* Inter-Agency Alien Witness and Informant Record.

(3) *Agency form number, if any, and the applicable component sponsoring the collection:* Form I–854. Office of Adjudications, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is used by law enforcement agencies (LEA) to bring alien witnesses and informants to the United States in ''S'' nonimmigrant classification. This form also provides the Department of States and the Immigration and Naturalization Service with information necessary to identify the requesting LEA, the alien witness and/or informant.

(5) *An estimate of the total number of respondent and the amount of time estimated for an average respondent to respond:* 125 responses at 4 hours and 15 minutes (4.25) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 531 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestion regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact Mr. Robert B. Briggs, Clearance Officer, U.S. Department of Justice, Information Management and Security Staff, Justice Management Division, Suit 850, Washington Center Building, 1001 G Street, NW., Washington, DC 20530.

Dated: April 9, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–9348 Filed 4–14–99; 8:45 am]

BILLING CODE 4410–10–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting; Meeting of the Board of Directors Operations and Regulations Committee

''FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: FR Doc. 99–9021 on page 17422.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: The Operations and Regulations Committee of the Legal Services Corporation Board of Directors will meet on April 16, 1999. The meeting will begin at 10:00 p.m. and continue until the Committee concludes its agenda.

CHANGES IN THE MEETING: The meeting will being at 10:00 a.m. and continue until the Committee concludes its agenda.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

Dated: April 13, 1999.

Suzanne B. Glasow.

Senior Assistant General Counsel.

[FR Doc. 99–9627 Filed 4–13–99; 3:20 pm]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, DC.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before June 1, 1999. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@...arch2.nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, telephone (301) 713–7110.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too, includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Air Force, Agency-wide (N1–AFU–97–16, 5 items, 5 temporary items). Files relate to Air Force radio and television service. Included are workload reports, product quality assessments, information concerning broadcast scheduling, and documents relating to the disposition and shipment of library materials.

2. Department of Energy, Agency-wide (N1–434–98–25, 3 items, 1 temporary item). Electronic copies of documents created using electronic mail and word processing relating to trips, meetings, telephone calls, and other daily activities of high officials as well as the staffing, organization, and procedures of the Department's component offices. Recordkeeping copies of these files are proposed for permanent retention.

3. Department of Energy, Agency-wide (N1–434–98–28, 172 items, 158 temporary items). Records relating to administrative and operational activities concerning environmental matters. Included are such records as form letters and requests for information, cooperative agreements with other Federal agencies and contractors, files documenting evaluation, assessment and audit activities, case files relating to the analysis of samples collected in the course of environmental investigations, program management case files, documents pertaining to worker protection, meeting minutes, inspection reports, logs and other files accumulated in connection with geological investigations, manuals, permits, shipment records, files on the

construction of storage tanks and wells, and documents pertaining to the disposal and cleanup of waste materials that reflect compliance with state, local, and Federal environmental regulations. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such files as archaeological records, environmental safety and site reports, public involvement records, project case files, post-closure plans and procedures, and waste disposal and cleanup.

4. Department of Justice, Environment and Natural Resources Division (N1–60–99–4, 1 item, 1 temporary item). Files of the Office of Litigation Support pertaining to its coordination of a project undertaken in the period 1994–1998 to develop an electronic information system for an International Tribunal acting in regard to civil rights violations in the former Yugoslavia and Rwanda. Included are correspondence, memoranda, proposals, reports, manuals, electronic mail, and staff notes pertaining to the project. Data contained in the electronic system will be scheduled separately.

5. Department of Justice, Immigration and Naturalization Service (N1–85–99–1, 2 items, 2 temporary items). Clinical case files of the Immigration Health Services Division pertaining to the treatment and care of detainees. Included are reports by medical personnel, graphs, charts, x-rays, and documents pertaining to the results of laboratory and diagnostic procedures. Also included are electronic copies of documents created using electronic mail and word processing.

6. Department of Justice, United States Marshals Service (N1–527–99–2, 1 item, 1 temporary item). Witness Case Files of the Witness Security Program. Files include birth certificates, medical records, passports, marriage licenses, military records, school records, professional licenses, insurance policies, awards, personal papers, and memorabilia.

7. Department of the Treasury, Internal Revenue Service (N1–58–99–2, 8 items, 7 temporary items). Files pertaining to the testing of information systems and Year 2000 conversion activities. Included are reports, system test plans, computer operator's handbooks, core record layouts, and expenditure records. Also included are electronic copies of documents created using electronic mail and word processing. The recordkeeping copy of the agency's report to Congress on Year 2000 conversion activities is proposed for permanent retention.

8. Department of Veterans Affairs, Veterans Health Administration (N1–15–99–1, 8 items, 8 temporary items). Paper and electronic records compiled in the implementation of the Department of Veterans Affairs (VA) Government Information Locator Service (GILS) System. Records include system documentation concerning planning, development and improvement to the GILS system, project history files including briefings and issues papers, project plans, charters and approvals, the VA's GILS master datafile, electronic backups of the master datafile, input documents, and hardcopy printouts. Also included are electronic copies of documents created using electronic mail and word processing.

9. Tennessee Valley Authority, Transmission and Power Supply (N1–142–98–7, 2 items, 2 temporary items). Audiotapes of dispatchers' official telephone communications. Records relate to accidents and power system problems as well as to routine business transactions.

10. Tennessee Valley Authority, Human Resources Division (N1–142–98–11, 1 item, 1 temporary item). Agreements between the agency and its managers and executives regarding benefits to be received during employment.

Dated: April 8, 1999.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 99–9440 Filed 4–14–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend Without Revision a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by June 14, 1999 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 306–1125 x 2017; or send email to splimpto@nsf.gov. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Fellowship Applications and Award Forms.

OMB Approval Number: 3145–0023.

Expiration Date of Approval: September 30, 1999.

Type of Request: Intent to seek approval to extend without revision an information collection for three years.

Abstract: Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1861 *et seq.*), as amended, states that ''The Foundation is authorized to award, within the limits of funds made available * * * scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, medical, biological, engineering, social, and other sciences at appropriate nonprofit American or nonprofit foreign institutions selected by the recipient of such aid, for stated periods of time.''

The Foundation Fellowship Programs are designed to meet the following objectives:

- To assure that some of the Nation's most talented students in the sciences obtain the education necessary to become creative and productive scientific researchers.
- To train or upgrade advanced scientific personnel to enhance their abilities as teachers and researchers.
- To promote graduate education in the sciences, mathematics, and engineering at institutions that have traditionally served ethnic minorities.
- To encourage pursuit of advanced science degrees by students who are members of ethnic groups traditionally under-represented in the Nation's advanced science personnel pool.

The list of fellowship award programs sponsored by the Foundation includes, but may not be limited to, the following:

NSF Graduate Research Fellowships

Graduate Fellowships
Minority Graduate Fellowships
Women in Engineering and Computer & Information Science
Earth Sciences Postdoctoral Research Fellowships
Postdoctoral Research Fellowships in Chemistry

Mathematical Sciences Postdoctoral Research Fellowships
NSF-NATO Postdoctoral Fellowships and Supporting Engineering
Minority Postdoctoral Research Fellowships and Supporting Activities
Postdoctoral Research Fellowships in Biosciences Related to the Environment
Postdoctoral Research Fellowships in Molecular Evolution
Ridge Inter-Disciplinary Global Experiments
Advanced Study Institute Travel Awards

International Opportunities for Scientists and Engineers

Japan Research Fellows
North American Research Fellows
International Research Fellows
Ethics and Values Fellowship Awards

Estimate of Burden: These are annual award programs with application deadlines varying according to the fellowship program. Public burden may also vary according to program, however it is estimated that each submission is averaged to be 12 hours per respondent.

Respondents: Individuals.

Estimated Number of Responses: 13,000.

Estimated Total Annual Burden on Respondents: 156,000 hours.

Frequency of Responses: Annually.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: April 9, 1999.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 99–9386 Filed 4–14–99; 8:45 am]

BILLING CODE 7555–01–U

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Computational Infrastructure and Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Computational Infrastructure and Research. (#1185).

Date and Time: April 19, 1999—6:00 pm–10:00 pm; April 20, 1999—8:00 am–6:00 pm; April 21, 1999—8:00 am–5:00 pm.

Place: University of Utah, Alumni House, Central Campus Drive, Salt Lake City, UT 84112.

Type of Meeting: Closed.

Contact Person: Dr. Charles H. Koelbel, Program Director, Advanced Computation Research Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning support for the Science and Technology Center, University of Utah.

Agenda: To review and evaluate a proposal and provide advance and recommendations as part of the review process for a proposal submitted to the National Science Foundation.

Reason for Closing: The activities being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 12, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–9396 Filed 4–14–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Animal Behavior; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Animal Behavior (#1160).

Date and Time: April 22–24, 1999, 8:30 a.m.–5:00 p.m.

Place: NSF, Room 360, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-Open.

Contact Persons: Dr. Penny Kukuk, Program Director, Animal Behavior Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1419, e-mail: pkukuk@nsf.gov.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact persons listed above.

Agenda: Open Session: April 23, 1999, 2:00 p.m. to 3:00 p.m.—discussion on research trends, opportunities and assessment procedures in Animal Behavior.

Closed Session: April 22, 1999, 8:30 a.m.–5:00 p.m., April 23, 1999, 8:30 a.m. to 2:00 p.m. and 3:00 p.m. to 5:00 p.m., and April 24, 1999, 8:30 a.m.–5:00 p.m. To review and evaluate Animal Behavior proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 12, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–9398 Filed 4–14–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Division of Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Division of Electrical and Communications Systems (1196).

Date & Time: May 6–7, 1999, 8:00 a.m.–5:00 p.m.

Place: Room 110, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Rajinder Khosia, Room 675, Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1339.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate regular proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 12, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–9399 Filed 4–14–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: April 21–23, 1999; 8:00 a.m. to 5:00 p.m.

Place: Room 330, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Emmeline Edwards, Program Director, Behavioral Neuroscience; Dr. Roy White, Program Director, Computational Neuroscience; Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306–1416.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 23, 1999; 10:00 a.m. to 11:00 a.m., to discuss goals and assessment procedures. *Closed Session:* April 21–22; 8:00 a.m. to 5:00 p.m.; April 23, 9:00 a.m. to 10:00 a.m., and 11:00 a.m. to 5:00 p.m. To review and evaluate Behavioral Neuroscience proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 12, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–9390 Filed 4–14–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date & Time: April 22–23, 1999, 9:00 a.m.–5:00 p.m.

Place: Room 310, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Annabell Segarra, Program Director, Neuroendocrinology, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306–1424.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 23, 1999; 10:00 a.m. to 11:00 a.m., to discuss goals and assessment procedures. *Closed Session:* April 22, 1999: 9:00 a.m. to 5:00 p.m., and April 23, 1999; 9:00 a.m. to 10:00 a.m. and 11:00 a.m. to 5:00 p.m. To review and evaluate Neuroendocrinology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 12, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–9391 Filed 4–14–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Physics (1208).

Date & Time: April 27–29, 1999, 8:00 a.m.–5:00 p.m.

Place: LIGO site, Livingston, Louisiana.

Type of Meeting: Closed.

Contact Person: Dr. Victor Cook, Program Manager, Laser Interferometer Gravitational Observatory, Physics Division, Room 1015, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306–1892.

Purpose of Meeting: To review the technical aspects and management of the Laser Interferometer Gravitational-Wave Observatory (LIGO) project.

Agenda: An overview of the project. Detailed examination of the technical aspects of the project and the management of the technical systems.

Reason for Closing: The Project plans being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary data for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 12, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–9392 Filed 4–14–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physiology and Ethology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Physiology and Ethology (1160).

Date and Time: April 26 & 27, 1999, 8:30 a.m.–6:00 p.m.

Place: NSF, Room 390, 4201 Wilson Blvd., Arlington, Virginia.

Type of Meeting: Part-Open.

Contact Person: Dr. Elvira Doman, Program Director, Integrative Animal Biology, Division of Integrative Biology and Neuroscience, Room 685N, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1421.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 26, 1999, 3:00 p.m. to 4:00 p.m.—discussion on research trends, opportunities and assessment procedures in Integrative Animal Biology.

Closed Session: April 26, 1999, 8:30 a.m.–3:00 p.m., 4:00 p.m. to 6:00 p.m. and April 27, 1999, 8:30 a.m. to 6:00 p.m. To review and evaluate Integrative Animal Biology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 12, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–9393 Filed 4–14–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Elementary, Secondary and Informal Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended) the National Science

Foundation announces the following meeting:

Name: Special Emphasis panel in Elementary, Secondary and Informal Education (#59)

Date and Time: Monday, April 26, 1999 11:00 AM–3:00 PM.

Place: Room 365, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Gerhard L. Salinger, Program Director, Division of Elementary, Secondary and Informal Education, Room 885, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1620.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Advanced Technological Education Program Proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 12, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–9397 Filed 4–14–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Social Behavioral and Economic Sciences Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Social Behavioral and Economic Sciences (1766) (Doctorate Data Project)

Date: April 22, 1999 (1:00 PM–5:00 PM; April 23, 1999 (1:00 PM–5:00 PM).

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Room 1295

type of Meeting: Open

Contact Person: Susan T. Hill, Director, Doctorate Data Project, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 (703) 306–1774, ext. 6915

Purpose of Meeting: Provide suggestions from the panel concerning the content of the Survey of Earned Docorates and the definition of ''research doctorate'' used to identify the universe of eligible graduates.

Summarized Agenda: The afternoon of April 22, 1999 will be used to discuss the goals of the panel and the Education items of the questionnaire April 23, 1999 will used to discuss the definition of ''research doctorate'' and the post graduation plans and demographic sections of the questionnaire.

Dated: April 12, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–9394 Filed 4–14–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 100, ''Reactor Site Criteria''.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* As necessary in order for NRC to assess the adequacy of proposed seismic design bases and the design bases for other geological hazards for nuclear power and test reactors constructed and licensed in accordance with 10 CFR Parts 50 or 52 and the Atomic Energy Act of 1954, as amended.

5. *Who will be required or asked to report:* Applicants and licensees for nuclear power and test reactors.

6. *An estimate of the number of responses:* 1.

7. *The estimated number of annual respondents:* 1.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 5,000.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* 10 CFR Part 100, ''Reactor Site Criteria,'' establishes approval requirements for proposed sites for the purpose of constructing and operating stationary power and testing reactors pursuant to the provisions of 10 CFR Parts 50 or 52. These reactors are required to be sited, designed, constructed, and maintained to withstand geologic hazards, such as faulting, seismic hazards, and the maximum credible earthquake, to protect the health and safety of the public and the environment. NRC uses the information required by 10 CFR Part 100 to assess the adequacy of proposed seismic design bases and the design bases for other geological hazards for nuclear power and test reactors.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by May 17, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Erik Godwin, Office of Information and Regulatory Affairs (3150–0093), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 8th day of April 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–9388 Filed 4–14–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Licensee; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 181 to Facility Operating License No. DPR–23 issued to H. B. Robinson Steam Electric Plant, Unit 2 (HBRSEP), which revised the Updated Final Safety Analysis Report (UFSAR) for operation of HBRSEP located in Darlington County, SC. The

amendment is effective as of the date of issuance.

This amendment consists of a change to the UFSAR in response to the request for amendment dated August 28, 1997, as supplemented by letters dated June 17, 1998, October 29, 1998, and February 11, 1999.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on May 21, 1998 (63 FR 28008). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (64 FR 17019).

For further details with respect to the action see (1) the application for amendment dated August 28, 1997, as supplemented June 17, 1998, October 29, 1998, and February 11, 1999, (2) Amendment No. 181 to License No. DPR–23, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Dated at Rockville, Maryland, this 7th day of April 1999.

For the Nuclear Regulatory Commission.

Ram Subbaratnam,

Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–9389 Filed 4–14–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of April 12, 19, 26, and May 3, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 12

Wednesday, April 14

9:00 a.m. Briefing on Investigative Matters (Closed—Ex. 5 & 7)

11:00 a.m. Briefing on Remaining Issues Related to Proposed Restart of Millstone Unit 2 (Public Meeting) (Contact: William Dean, 301–415–2240)

Thursday, April 15

3:00 p.m. Affirmative Session (Public Meeting)

a. Private Fuel Storage, LLC (PFS) Review of Board's Decision Granting Late-Filed Intervention Petition of Southern Utah Wilderness Alliance (LBP–99–3) (February 3, 1999) (TENTATIVE)

b. Duke Energy Corporation—Commission Review of LBP 98–33 (TENTATIVE)

Friday, April 16

9:30 a.m. Briefing on Rulemaking For Generally Licensed Devices (Public Meeting) (Contact: Patricia Holahan, 301–415–8125)

Week of April 19—Tentative

There are no meetings scheduled for the Week of April 19.

Week of April 26—Tentative

There are no meetings scheduled for the Week of April 26.

Week of May 3—Tentative

Tuesday, May 4

9:00 a.m. Meeting on NRC Response to Stakeholders' Concerns (Public Meeting) Location: (NRC Auditorium, Two White Flint North)

2:00 p.m. Meeting on Planning, Budgeting and Performance Management Process (PBPM) And Institutionalizing Change (Public Meeting)

Wednesday, May 5

9:30 a.m. Briefing on Safeguards Performance Assessment (Public Meeting)

Thursday, May 6

9:30 a.m. Briefing on Operating Reactors and Fuel Facilities (Public Meeting)

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

*THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE. TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 415–1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

* * * * *

Additional Information

By a vote of 5–0 on April 6, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Hydro Resources, Inc. (HRI)—Endaum's and SRIC's Petition for Interlocutory Review of Presiding Officer's Order Concerning Radioactive Air Emissions (March 18, 1999) (LBP–99–15)'' (PUBLIC MEETING) be held on April 6, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or *dkw@nrc.gov*.

Dated: April 9, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–9524 Filed 4–13–99; 11:15 am]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's web site (http://www.pbgc.gov).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in April 1999. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in May 1999. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062 and multiemployer withdrawal liability under part 4219 apply to interest accruing during the second quarter (April through June) of 1999.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the ''applicable percentage'' (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in April 1999 is 4.74 percent (*i.e.*, 85 percent of the 5.58 percent yield figure for March 1999).

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between May 1998 and April 1999.

For premium payment years beginning in:	The assumed interest rate is:
May 1998	5.03
June 1998	5.04
July 1998	4.85
August 1998	4.83
September 1998	4.71
October 1998	4.42
November 1998	4.26
December 1998	4.46
January 1999	4.30
February 1999	4.39
March 1999	4.56
April 1999	4.74

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, § 4062.7 of the PBGC's regulation on Liability for Termination of Single-employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the second quarter (April through June) of 1999, as announced by the IRS, is 8 percent.

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

From	Through	Interest rate (percent)
10/1/92	6/30/94	7
7/1/94	9/30/94	8
10/1/94	3/31/95	9
4/1/95	6/30/95	10
7/1/95	3/31/96	9
4/1/96	6/30/96	8
7/1/96	12/31/96	9
1/1/97	3/31/97	9
4/1/97	6/30/97	9
7/1/97	9/30/97	9
10/1/97	12/31/97	9
1/1/98	3/31/98	9
4/1/98	6/30/98	8
7/1/98	9/30/98	8
10/1/98	12/31/98	8
1/1/99	3/31/99	7
4/1/99	6/30/99	8

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (''Selected Interest Rates''). The rate for the second quarter (April through June) of 1999 (*i.e.*, the rate reported for March 15, 1999) is 7.75 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From	Through	Rate (percent)
10/1/92	6/30/94	6.00
7/1/94	9/30/94	7.25
10/1/94	12/31/94	7.75
1/1/95	3/31/95	8.50
4/1/95	9/30/95	9.00
10/1/95	3/31/96	8.75
4/1/96	12/31/96	8.25
1/1/97	3/31/97	8.25
4/1/97	6/30/97	8.25
7/1/97	9/30/97	8.50
10/1/97	12/31/97	8.50
1/1/98	3/31/98	8.50
4/1/98	6/30/98	8.50
7/1/98	9/30/98	8.50
10/1/98	12/31/98	8.50
1/1/99	3/31/99	7.75
4/1/99	6/30/99	7.75

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in May 1999 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 9th day of April 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–9376 Filed 4–14–99; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (The InterCept Group, Inc., Common Stock, No Par Value Per Share) File No. 1–14213

April 9, 1999.

The InterCept Group, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the security specified above (''Security'') from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Security has been listed for trading on the Amex since the Company's initial public offering (''IPO'') on June 9, 1998. On March 22, 1999, the Security was approved for listing on the Nasdaq National Market (''Nasdaq'') and subsequently began trading there on March 30, 1999.

The Company, whose primary business relates to technology, has believed since its IPO that the Nasdaq would be the preferred marketplace for its securities and that quotation on the Nasdaq would provide enhanced liquidity for the Company's shareholders. At the time of its IPO, however, the Company did not qualify for listing on the Nasdaq.

Upon meeting the criteria for listing on the Nasdaq, the Company determined that, acting according to what it perceived as the best interests of its shareholders, it would proceed with listing the Security on the Nasdaq and concomitantly make its application to withdraw the Security from listing on the Amex.

The Company has complied with the rules of the Amex by filing with the Exchange a certified copy of the resolutions adopted by the Board of Directors of the Company authorizing the withdrawal of the Security from listing on the Amex and by setting forth in detail to the Exchange the reasons for such proposed withdrawal, and the facts in support thereof.

The Amex has informed the Company of its determination not to interpose any objection to the Company's application to withdraw its Security from listing and registration on the Exchange.

The Company's application relates solely to the withdrawal from listing to the Company's Security on the Amex and shall have no effect upon the continued listing of the Security on the Nasdaq. By reason of Section 12(g) of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission.

Any interested person may, on or before May 3, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9443 Filed 4–14–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23778; 812–11570]

INVESCO Global Health Sciences Fund et al.; Notice of Application

April 9, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 19(b) of the Act, and rule 19b–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to amend a prior order that permits the INVESCO Global Health Sciences Fund (the ''Fund'') to make up to four distributions of net long-term capital gains in any one taxable year, so long as the Fund maintains in effect a distribution policy calling for quarterly distributions of a mixed percentage of its net asset value (''NAV'') (''Prior Order'').[1]

APPLICANTS: The Fund and INVESCO Funds Group, Inc. (''IFG'').

FILING DATE: The application was filed on April 8, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 4, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, 7800 East Union Avenue, Denver, CO 80237.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Attorney Advisor, at (202) 942–0569, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. The Fund is a closed-end diversified management investment company organized as a Massachusetts business trust and registered under the

[1] Invesco Global Health Sciences Fund, Investment Company Act Release Nos. 23061 (March 6, 1998) (notice) and 23099 (April 3, 1998) (order).

Act. The Fund's investment objective is capital appreciation through investment in health sciences related business sectors. IFG, an investment adviser registered under the Investment Advisers Act of 1940, serves as the Fund's investment adviser.

2. On October 6, 1997, the Fund's board of trustees (''Board'') adopted a distribution policy (the ''Distribution Policy'') that calls for four quarterly distributions of 2.5% of the Fund's NAV at the time of the declaration, for a total of approximately 10% of the NAV per year. Applicants believe that the Distribution Policy will help reduce the discount for NAV at which the Fund's shares typically trade.

3. On April 3, 1998, the Commission issued the Prior Order. The requested order (''Amended Order'') would amend the condition in the Prior Order concerning rights offerings by the Fund.[2]

Applicant's Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the Commission may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b–1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986, as amended (the ''Code''). Rule 19b–1(a) also permits a supplemental distribution to be made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b–1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code.

2. Applicants state that one of the concerns underlying section 19(b) and rule 19b–1 is that frequent capital gains distributions could facilitate improper sales practices, including, in particular, the practice of urging an investor to purchase fund shares on the basis of an upcoming dividend (''selling the dividend''), when the dividend would result in an immediate corresponding reduction in NAV and would be, in effect, a return of the investor's capital. Applicants submit that this concern does not apply to closed-end investment companies, such as the Fund, that do not continuously distribute shares.

3. Applicants also assert that the requested amended condition would protect against the concern about ''selling the dividend'' in connection with a rights offering by the Fund. Applicants state also that if the Fund makes a rights offering to its shareholders, the rights offering will be timed so that shares issuable upon exercise of the rights will be issued only in the six week period immediately following the record date for the declaration of a dividend. Thus, the abuse of selling the dividend could not occur as a matter of timing. Applicants further state that any rights offering by the Fund will comply with all Commission and staff guidelines concerning such offering. In determining compliance with these guidelines, the Board may rely on the advice of outside counsel, IFG and other appropriate persons, and will consider, among other things, the brokerage commissions that would be paid in connection with the offering. Any rights offering by the Fund will also comply with any applicable NASD rules regarding the fairness of compensation.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act, or any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, applicants believe that the requested amendment to the Prior Order meets the standards set forth in section 6(c) of the Act.

Applicant's Condition

Applicants agree that the Amended Order shall terminate upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by the Fund of its shares other than: (i) a rights offering to shareholders of the Fund, in which: (a) shares are issued only within the six-week period immediately following the record date of a quarterly dividend, (b) the prospectus for such rights offering makes it clear that shareholders exercising the rights will not be entitled to receive such dividend; and (c) the Fund has not engaged in more than one rights offering during any given calendar year; or (ii) an offering in connection with a merger, consolidation, acquisition, or reorganization of the Fund; unless the Fund has received from the staff of the Commission written assurance that the Amended Order will remain in effect.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–9357 Filed 4–14–99; 8:45 am]

BILLING CODE 8010–01–M

[2] Applicants request that the relief extend to any other registered closed-end management investment company in the future advised by IFG or any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with IFG (''Future Fund''). Applicants state that any Future Fund that relies on the relief will do so only in accordance with the terms and conditions of the application.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. IC–23780, 812–11276]

PaineWebber Incorporated and PaineWebber Equity Trust, ABCs Trust Series 1; Notice of Application

April 9, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain terminating series of a unit investment trust (''UIT'') to sell portfolio securities to certain new series of the UIT.

APPLICANTS: PaineWebber Incorporated (''PaineWebber'' or ''Sponsor''), PaineWebber Equity Trust (''Trust''), ABCs Trust Series 1 (''Series 1''), and each subsequent series of the Trust sponsored by PaineWebber (together with Series 1, each a ''Series'').[1]

FILING DATES: The application was filed on August 26, 1998, and amended on March 5, 1999. Applicants have agreed to file an amendment, the substance of which is reflected in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 5, 1999, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature

[1] Any future Series that relies on the requested relief will comply with the terms and conditions of the application.

of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549–0609. Applicants, 1200 Harbor Boulevard, Weehawken, N.J. 07087, Attn: Robert E. Holley.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Counsel, at (202) 942–0572, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Each Series will be a series of the Trust and will be a UIT registered under the Act. PaineWebber will be the sponsor of each Series. Each Series will be created under the laws of one of the United States pursuant to a trust indenture, which will contain information specific to that Series, and which will incorporate by reference a master trust indenture between the Sponsor and a financial institution that is a bank within the meaning of section 2(a)(5) of the Act and that satisfies the criteria in section 26(a) of the Act and will be unaffiliated with the Sponsor (the ''Trustee'').

2. The investment objective of each Series will be to provide for capital appreciation and/or dividend income by investing in equity securities. The Sponsor will deposit with the Trustee portfolio securities which will be chosen according to fixed criteria from securities that appear on the PaineWebber Equity Research Department's Analysts' Best Call List as of the initial date of deposit. Each Series' portfolio may include equity securities that have (a) a minimum market capitalization of U.S. $1 billion and (b) had an average daily trading volume in the preceding 60 trading days of at least 50,000 shares equal in value to at least U.S. $250,000 on an exchange (''Qualified Exchange'') which is (i) a national securities exchange which meets the qualifications of section 6 of the Securities Exchange Act of 1934, (ii) the Nasdaq National Market, or (iii) a foreign securities exchange that meets the qualifications set out in the proposed amendments to rule 12d3–1(d)(6) under the Act[2] (''Qualified Rollover Securities'').

3. Each Series has at least one rollover date (''Rollover Date'') on which unitholders in the Series (''Rollover Series'') may redeem their units in the Rollover Series on a specified date (''Special Liquidation Date'') and receive units of a subsequent Series of the same type (''New Series''), which will be created on or about the Rollover Date.

4. Each Rollover Series will terminate approximately one year after it is offered for sale. The Sponsor anticipates that there will be some overlap in the Qualified Rollover Securities selected for the portfolios of each Rollover Series and the related New Series. In connection with the rollover, absent the requested relief, each Rollover Series would sell all of its Qualified Rollover Securities and each New Series would acquire its Qualified Rollover Securities on the applicable securities exchange. This would result in the unitholders of both the Rollover Series and the New Series incurring brokerage commissions on the same securities.

Applicants' Legal Analysis

1. Section 17(a) of the Act prohibits an affiliated person of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include, in pertinent part, any person directly or indirectly controlling, controlled by or under common control with, such other person. Each Series will have a common sponsor. Applicants state that, since the sponsor of a Series may be deemed to control the Series, all of the Series may be deemed to be under common control and, thus affiliated persons of each other.

2. Rule 17a–7 under the Act permits registered investment companies that might be deemed affiliated persons solely by reason of having common investment advisers, directors, and/or officers, to purchase securities from, or sell securities to, one another at an independently determined price, provided certain conditions are met. Applicants represent that they will comply with all of the provisions of rule 17a–7, other than paragraph (e).

3. Paragraph (e) of the rule requires an investment company's board of directors to adopt and monitor certain procedures to assure compliance with the rule. Since a UIT does not have a board of directors, the Series would be unable to comply with this requirement.

4. Section 17(b) of the Act authorizes the SEC to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Section 6(c) under the Act permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act. Applicants request relief under sections 6(c) and 17(b) to permit a Rollover Series to sell Qualified Rollover Securities to a New Series at the closing sales prices of the Qualified Rollover Securities on a Qualified Exchange on the Special Liquidation Date of the Rollover Series (''Sale Date''), and to permit the New Series to purchase the Qualified Rollover Securities.

5. Applicants state that the terms of the proposed transactions will meet the standards of sections 6(c) and 17(b). Applicants represent that purchases and sales between Series will be consistent with the policy of each Series. Applicants state that permitting the proposed transactions would result in savings on brokerage commissions for the Series.

6. Applicants state that the requirements for Qualified Rollover Securities would help to protect against overreaching. In addition, applicants state that the Sponsor will certify to the Trustee, within five days of each sale of Qualified Rollover Securities from a Rollover Series to a New Series: (a) that the transaction is consistent with the policy of both the Rollover Series and the New Series, as recited in their respective registration statements and reports filed under the Act, (b) the date of the transaction, and (c) the closing sales price on the Qualified Exchange

[2] Investment Company Act Release No. 17096 (Aug. 3, 1989) (proposing amendments to rule 12d3–1). The proposed amended rule defined a ''Qualified Foreign Exchange'' to mean a stock exchange in a country other than the United States where (a) trading generally occurred at least four days a week; (b) there were limited restrictions on the ability of registered investment companies to trade their holdings on the exchange; (c) the exchange had a trading volume in stocks for the previous year of at least U.S. $7.5 billion; and (d) the exchange had a turnover ratio for the proceeding year of at least 20% of its market capitalization. The version of the amended rule that was adopted did not include the part of the proposed amendment defining the term ''Qualified Foreign Exchange.''

for the Sale Date of the Qualified Rollover Securities. The Trustee will then countersign the certificate, unless, in the unlikely event that the Trustee disagrees with the closing sales price listed on the certificate, the Trustee immediately informs the Sponsor orally of the disagreement and returns the certificate within five days to the Sponsor with corrections duly noted. Upon the Sponsor's receipt of a corrected certificate, if the Sponsor can verify the corrected price by reference to an independently published list of closing sales prices for the date of the transactions, the Sponsor will ensure that the price of units of the New Series, and distributions to holders of the Rollover Series with regard to redemption of their units or termination of the Rollover Series, accurately reflect the corrected price. To the extent that the Sponsor disagrees with the Trustee's corrected price, the Sponsor and the Trustee will jointly determine the correct sales price by reference to a mutually agreeable, independently published list of closing sales prices for the date of the transaction.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Each sale of Qualified Rollover Securities by a Rollover Series to a New Series will be effected at the closing price of the Qualified Rollover Securities sold on a Qualified Exchange on the Sale Date, without any brokerage charges or other remuneration except customary transfer fees, if any.

2. The nature and conditions of the transaction will be fully disclosed to investors in the appropriate prospectus of each Rollover Series and New Series.

3. The Trustee of each Rollover Series and New Series will (a) review the procedures relating to the sale of Qualified Rollover Securities from a Rollover Series and the purchase of those Qualified Rollover Securities for deposit in a New Series, and (b) make such changes to the procedures as the Trustee deems necessary that are reasonably designed to comply with paragraphs (a) through (d) of rule 17a–7.

4. A written copy of these procedures and a written record of each transaction pursuant to this order will be maintained as provided in rule 17a–7(f).

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9442 Filed 4–14–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41256; International Series Release No. 1190; File No. SR–PHLX–98–51]

Self-Regulatory Organizations, Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Customized Cross-Rates Foreign Currency Option Margin Levels

April 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 16, 1998, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PHLX. The PHLX amended the proposal on March 15, 1993.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend PHLX Rule 722, Margin Accounts, to codify its method of calculating customer margin requirements for customized cross-rate foreign currency options (''CCRs'').[4] The required margin for CCRs is determined by combining the actual cost of the CCR, or the ''premium,'' plus an extra or ''add-on'' amount that is raised or lowered according to the volatility of the currencies involved.[5] The proposed method for calculating the margin for all CCRs will be outlined in PHLX Rule 722, Tiers I and II, and Commentary .15, with the exception of the margin for CCRs involving the Mexican peso,[6] which will be calculated in accordance with Commentary .16 and will be placed in Tier III. Tier IV, which currently addresses Mexican peso CCR margin levels, will be deleted. The text of the proposed rule change follows. Proposed new language is *italicized*; proposed deletions are in [brackets].

* * * * *

Margin Accounts

Rule 722.(a)–(c) No change.

(d) 1–2 No change.

3. Short Positions—Listed Options and Currency, Currency Index or Stock Index Warrants. Subject to the exceptions set forth below, the margin on any put or call option listed or traded on a registered national securities exchange or association and issued by a registered clearing corporation or any currency warrant, currency index warrant or stock index warrant which is issued, guaranteed or carried ''short'' in a customer's account shall be 100% of the current market value of the option or warrant plus the percentage of the current market value of the underlying security, foreign currency or index specified in column II below.

Notwithstanding the margin required below, the minimum margin on any put or call or any warrant issued, guaranteed or carried ''short'' in a customer's account may be reduced by any ''out-of-the-money-amount'' (as defined below), but shall not be less than 100% of the current market value of the option or warrant plus the percentage of current market value of the underlying security, foreign currency or index specified in column II below with the exception that the minimum margin required on each such put option contract shall not be less than the current option market value plus the minimum percentage set forth in column III of the option's aggregate exercise price amount.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Nandita Yagnik, Counsel, PHLX, to Hong-anh Tran, Attorney, Division of Market Regulation (''Division''), Commission, dated March 15, 1999 (''Amendment No. 1'').

[4] CCRs are traded pursuant to PHLX Rule 1069. A CCR is an option to purchase or sell an underlying currency that can be any approved currency as defined pursuant to PHLX Rule 1009(c). Moreover, the option's exercise price is denominated in another approved currency (the trading currency), and neither the underlying nor the trading currency is denominated in U.S. dollars.

[5] The margin may also be reduced in ''out-of-the money'' situations, where the value of the option does not accord with current market conditions. Notwithstanding, the margin cannot be reduced to less than 100% of the current market value of the premium plus .75% of the underlying component value.

[6] The Exchange currently has Commission approval to trade, as CCRs, the Mexican peso only against the Canadian dollar. Thus, CCR options involving the Mexican peso include Canadian dollar/Mexican peso and Mexican peso/Canadian dollar contracts. *See* PHLX Rule 1069(a)(1)(B).

I. Type of option	II. Initial and/or maintenance margin required	III. Minimum margin required	IV. Underlying component value
(1)		No change	
(2)		No change	
(3)		No change	
(4) Foreign Currencies	(#)	3/4%	The product of Units per foreign currentcy contract and the closing spot price.
(5) Cross-Rate	4%	3/4%	The products Units per cross-rate contract and the closing spot price.
(6) Tier I Customized Cross-rate currency options.	4%	3/4%	The product of Units per cross-rate contract and the closing spot price.
(7) Tier II Customized Cross-rate currency options.	6%	3/4%	The product of Units per cross-rate contract and the closing spot price.
(8) Tier III Customized Cross-rate currency options.	[7%]##	3/4%	The product of Units per cross-rate contract and the closing spot price.
[(9) Tier IV Customized Cross-rate currency options.	17%	3/4%	The product of Units per cross-rate contract and the closing spot price.
[(10)]*9*[7]		No change.	
[(11)]*10*		No change.	
[(12)]*11*		No change.	
[(13)]*12*		No change.	

The margin requirement for foreign currency options will be determined pursuant to Commentary .16 of this Rule 722.

The margin requirement for Tier III customized cross-rate foreign currency options will be determined pursuant to Commentary .15 and .16 of this Rule 722.

Rule 722(d)4–5 No change.
Rule 722(e)–(i) No change.

* * * * *

Commentary

.01–.14 No change.

.15 For purposes of this rule, the Exchange shall designate the tier level of the customized cross-rate currency options. The Exchange shall make such determination for Tier I and Tier II options based upon the correlation between the currency pairs. Currency pairs which exhibit a correlation less than .25 over the preceding two year period shall be placed in Tier II while all other currency pairs shall be placed in Tier I. The correlations between the currency pairs in these two tiers shall be reviewed no less frequently than on a monthly basis. Tier III will include customized cross-rate currency options which involve [either the Italian lira or Spanish peseta. Tier IV will include customized cross-rate currency options which involve] the Mexican peso[.] *and the margin requirement will be determined according to the methodology pursuant to Commentary .16 below.*

.16 The margin requirement for any foreign currency put or call option listed or traded on the Exchange and issued by a registered clearing corporation which is issued, guaranteed or carried ''short'' in a customer's account, except for cross-rate currency options *other than customized cross-rate currency options based on the Mexican peso,* shall be the amount provided in paragraph (d)(3) of this Rule 722 and shall be calculated as follows:

(a) The Exchange will review five day price movements over the most recent three year period for each foreign currency underlying options traded on the Exchange and will set a margin level which would have covered the price changes over the review period at least 97.5% of the time (''confidence level'').

(b) Subsequent reviews of five day price changes over the most recent three year period will be performed quarterly on the 15th of January, April, July and October of each year.

(c) If the results of subsequent reviews show that the confidence level for any currency has fallen below 97%, the Exchange will increase the margin requirement for that currency up to a 98% confidence level. If the results show a confidence level between 97% and 97.5%, the currency will be monitored monthly until the confidence level exceeds 97.5% for two consecutive months. If the results of a monthly review show that the confidence level has fallen below 97%, the margin requirement will be increased to a 98% confidence level. If the results of any review show that the confidence level has exceeded 98.5%, the margin level would be reduced to a level which would provide a 98% confidence level.

(d) The Exchange will also review each currency for large price movements outside the margin level (''extreme outlier test''). If the results of any review show a price movement, either positive or negative, of greater than two times the current margin level, the margin requirement for that currency will be increased to a confidence level of 99%.

(e) Pursuant to paragraph (i)(8) of this Rule 722, the Exchange may also conduct reviews of currency margin levels at any time that market conditions warrant.

* * * * *

II. Self-Regulatory Organization's Statements of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the PHLX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The PHLX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the Exchange offers an array of foreign currency option products (''FCOs''), including among others, standardized and customized (the category into which CCRs fall) currency options which have differing

[7] Pursuant to a telephone conversation between Nandita Yagnik, Counsel, PHLX, and Hong-anh Tran, Attorney, Division, Commission, dated April 6, 1999, the PHLX proposes to renumber items (10) through (13) as items (9) through (12).

margin requirements. The Exchange currently lists standardized foreign currency options [8] that include standardized options on eight foreign currencies (''Standardized FCOs'').[9] The Exchange also lists two cross-rate (''Standardized CRs) [10] currency options. The Exchange also presently lists customized foreign currency options (''Customized FCOs'') [11] that include customized strikes (''Customized Strikes''),[12] customized inverse FCOs (''Customized Inverses''),[13] and CCRs.

The add-on margin calculation methodology for Standardized FCOs is based on a methodology, outlined in Commentary .16 to PHLX Rule 722.[14] Standardized CRs presently carry an initial and maintenance add-on margin of 4%, which covers greater than 96% of all seven-day price movements over the preceding one-year period.[15] Customized Inverses and Customized Strikes that trade in U.S. dollars are currently margined following the same methodology as the Exchange's Standardized FCOs (*see* Commentary .16 to PHLX Rule 722).

The add-on margin requirements for CCRs,[16] however, developed differently from that of Standardized FCOs, or Standardized CRs. The Exchange developed a method for determining add-on margin levels for currency pairs using a tiered system, believing that it would prove burdensome to determine the margin level for each currency pair due to the numerous combinations of approved currencies.[16] Under the tiered system, margin levels are determined based upon the correlations between all the possible combinations of approved currencies, thus significantly reducing the burden on the Exchange to calculate the margin levels for each individual currency pair.

Changes to the Margin for CCRs Involving Italian Lira and Spanish Peseta

There are four tiers in the system (I–IV), each of which provides an overall margin for short CCR positions, which include an add-on percentage amount for both initial and maintenance margins (*e.g.*, 4% for Tier I) as well as a set minimum add-on margin requirement, which is currently ¾% for each tier. Currently, Tier III applies to CCRs involving the Italian lira and the Spanish peseta, such that any CCRs involving those currencies would have an add-on margin requirement of 7%.[18] The Exchange now proposes to set add-on margins for CCRs involving the Italian lira and the Spanish peseta following the same correlation method used for CCRs other than the Mexican peso.[19] For a pair of approved currencies, this method examines the correlation between the daily price change for one of those currencies with the daily price change for the other currency for the preceding two-year period. If the correlation is greater than or equal to .25, then the add-on margin level is 4% for that currency pair (*i.e.*, Tier I). If the correlation is below .25, then the add-on margin level for the currency pair is 6% (*i.e* Tier II).Commentary .15 to PHLX Rule 722 (as well as the chart within that Rule) will be amended to reflect these changes to the status of CCRs involving the Italian lira and the Spanish peseta.

The PHLX Examinations Department will review the correlation between the currency of pairs monthly. The currency pairs underlying the customized cross-rate options may move between Tiers I and II depending upon their correlation to each other in the preceding period. If the monthly review reveals that any combination of approved currencies should be in a different tier based on the correlation, the Exchange will implement the change immediately, and promptly notify the membership and Commission.

The Exchange also proposes including an additional adjustment for ''out-of-the-money amounts'' in those CCRs involving the Italian lira or the Spanish peseta. This adjustment is currently applied to the overall initial and maintenance margin for all the currency pairs currently in Tiers I and II, but not to those involving the Italian lira or the Spanish peseta.[20]

Changes to Add-On Margin for CCRs Involving the Mexican Peso

Tier IV presently applies to CCRs involving the Mexican peso.[21] Tier IV

[8] Standardized options carry specific contract terms for features such as contract size, strike price intervals, expiration dates, price quoting and premium settlement.

[9] The eight foreign currencies previously approved for listing were the Australian dollar, British pound, Canadian dollar, German mark, European Currency Unit, French franc, Japanese yen and Swiss franc. *See* PHLX Rule 1009(c). The base currency (which is the currency in which premiums are quoted and paid) for these Standardized FCOs is the U.S. dollar. *See* Securities Exchange Act Release Nos. 19133 (October 14, 1982), 47 FR 46946 (October 21, 1982) (File No. SR–Phlx–81–4) (regarding the listing and trading of standardized options based on the British pound, German mark, Swiss franc, Canadian dollar and Japanese yen); 20822 (April 4, 1984), 49 FR 14611 (April 12, 1984) (File No. SR–Phlx–84–1) (regarding the listing and trading of Standardized FCOs based on the French franc); 22853 (February 3, 1986), 51 FR 5129 (February 11, 1986) (File No. SR–Phlx–85–10) (regarding the listing and trading of Standardized FCOs based on the European Currency Unit); and 23945 (December 30, 1986), 52 FR 633 (January 7, 1987) (File No. SR–Phlx–86–38) (regarding the listing and trading of Standardized FCOs based on the Australian dollar).

[10] The Exchange presently offers two Standardized CRs, the Deutsche mark/Japanese yen and the British pound/Deutsche mark. The Exchange also has approval to trade a third standardized CR, the British pound/Japanese yen, however, it has not yet been made available for trading. *See* Securities Exchange Act Release No. 29919 (November 7, 1991), 56 FR 58109 (November 15, 1991) (File Nos. SR–Phlx–90–12; SR–Phlx–91–03; SR–Phlx–91–23).

[11] Customized options allow users to customize all aspects of a currency option including: choice of exercise price, the expiration dates of up to two years, and premium quotation as either units of currency or percent of underlying value. Presently, the Exchange lists customized, not standardized, currency options involving the Italian lira, the Spanish peseta, and the Mexican peso. *See* PHLX Rules 1009(c) and 1069.

[12] The Exchange offers Customized Strikes on any approved currency presently listed under PHLX Rule 1009(c). Customized Strikes provide FCO traders and their customers with the ability, within certain limits, to trade an FCO with any exercise price it chooses on a specific approved currency even if that price does not correspond to an exercise price of a listed standardized FCO. *See* Securities Exchange Act Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994) (File No. SR–Phlx–94–18).

[13] A Customized Inverse is a Customized FCO where the underlying currency (the currency in which an FCO settles) is the U.S. dollar. The Exchange presently provides for the trading of Customized Inverses on any of the approved currencies. *See* Securities Exchange Act Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994) (File No. SR–Phlx–94–18).

[14] *See* Securities Exchange Act Release No. 40208 (July 5, 1998), 63 FR 39388 (July 22, 1998) (File No. SR–Phlx–97–63).

[15] *See* Securities Exchange Act Release No. 29919 (November 7, 1991), 56 FR 58109 (November 15, 1991) (File No. SR–Phlx–90–12); SR–Phlx–91–03; SR–Phlx–91–23).

[16] The add-on margin treatment for Customized Strikes based on CCRs (*i.e.*, a CCR with a customized strike price) follows the same tiered system as CCRs.

[17] *See* Securities Exchange Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994) (File No. SR–Phlx–94–18).

[18] The Exchange indicates that when the Commission approved CCRs on the Italian lira and the Spanish peseta, the margin level of 7% was determined by the frequency of distributions method reflecting at least 97.5% of all seven day price movements over the preceding three-year period. Specifically, the 7% margin covered 98.84% and 99.10% of all seven day price changes over the three-year review period involving the Italian lira and the Spanish peseta, respectively.

[19] The PHLX represents that the Italian lira and Spanish peseta have become more established currencies in the currency market, and therefore should be margined in accordance with margins for other approved currencies in a customized cross-rate context. Specifically, the risks involved in trading CCRs involving the lira or peseta have now been reduced so that the 7% customer margin add-on percentage for either case, based on at least 97.5% confidence level, is no longer necessary.

[20] *See* Securities Exchange Act Release 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994) (File No. SR–Phlx–94–18); and *See* Securities Exchange Act Release No. 40208 (July 5, 1998), 63 FR 39338 (July 22, 1998) (File No. SR–Phlx–97–63).

[21] The Mexican peso may only be traded as CCRs against the Canadian dollar. See PHLX Rule

requires an initial and/or maintenance add-on margin of 17%, and covers 99% of all five-day price movements over the preceding three-year period. Currently, under Tier III, there is a 7% initial and/or maintenance add-on margin. Under the proposal, the 7% add-on will be eliminated and the margin requirement for Tier III CCRs will be determined pursuant to Commentary .15 and .16 of PHLX Rule 722, as amended.[22] The Exchange now proposes to delete Tier IV and to amend Tier III to apply to margin levels for CCRs involving the Mexican peso. Under the proposed method for calculating the add-on margin for CCRs involving the Mexican peso, the Exchange will still review five-day price movements over the most recent three-year period but the calculation as proposed would cover cover at least 97.5% of all such five-day price movements rather than the current 99%. This determination is the same as that currently applied to Standardized FCOs covered by Commentary .16 to PHLX Rule 722. The PHLX Examinations Department will review margin levels for CCRs involving the Mexican peso quarterly, at the same time such review is conducted for Standardized FCOs. The Exchange indicates that applying the add-on margin methodology outlined in Commentary .16 to Mexican peso CCRs will eliminate the need to state the actual add-on margin levels for Canadian dollar/Mexican peso and Mexican peso/Canadian dollar CCR contracts. Instead, the Exchange proposed to provide notice of the add-on margin levels for Mexican peso CCRs quarterly via circulars to the membership, the other market participants, and the Commission. The notice will follow the schedule outlined for quarterly reviews conducted for Standardized FCOs.

2. Statutory Basis

The proposed rule change is consistent with Section 6 of the Act,[23] and specifically Section 6(b)(5) thereof,[24] in that it is designed (a) to promote just and equitable principles of trade; (b) to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect in CCRs; and (c) to facilitate transactions in securities by establishing a methodology for the calculation of margin levels for CCRs that will remain consistent and ease the burden of determining new margin levels for each currency traded in the customized environment.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying with the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR–Phlx–98–51 and should be submitted by May 6, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–9356 Filed 4–14–99; 8:45 am]

BILLING CODE 8010–01–M

1069(a)(1)(B); *See* Securities Exchange Act Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994) (File No. SR–Phlx-94–18).

[21] The Exchange is proposing to amend Commentary .15 to remove the Italian lira and Spanish peseta CCRs from Tier III, to remove a reference to Tier IV, and to move CCRs involving Mexican pesos to Tier III, to note that margin for Mexican peso CCRs is to be calculated pursuant to Commentary .16. The Exchange is proposing to amend Commentary .16 to clarify that CCRs involving the Mexican peso are to be calculated under the formula set out in that commentary.

[23] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[25] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–4974]

Port Access Routes Study; Strait of Juan de Fuca and Adjacent Waters

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; extension of comment period.

SUMMARY: The Coast Guard is announcing a public meeting to collect data and information for the ongoing study of port-access routes for the Strait of Juan de Fuca and adjacent waters. The meeting will focus on the issues raised and questions listed in the **Federal Register** notice announcing the study. The Coast Guard is also extending the comment period to May 31, 1999 to allow additional time for public comment.

DATES: The meeting will be held on May 12, 1999 from 1 p.m. to 4 p.m. Comments and related material must reach the Docket Management Facility on or before May 31, 1999.

ADDRESSES: The meeting will be held in the auditorium of Building 9, NOAA Western Regional Center, 7600 Sand Point Way NE, Seattle, WA 98115.

You may submit your written comments and related material by only one of the following methods:

(1) By mail to the Docket Management Facility, (USCG–1999–4974), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–001.

(2) By hand to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this notice. Comments and documents, as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this notice on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice or public meeting, contact Mr. John Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, Thirteenth Coast Guard District, telephone (206) 220–7272, or Ms. Barbara Marx, Office of Vessel Traffic Management, U.S. Coast Guard Headquarters, telephone (202) 267–0574. For questions on viewing, or submitting material to the docket, contact Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate by submitting comments and related material, and by attending the public meeting. If you submit written comments, please include your name and address, identify the docket number for this notice (USCG–1999–4974), indicate the specific section of the **Federal Register** notice announcing the study to which each comment applies, and give the reason for each comment. You may submit your written comments and material by mail, hand, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please do not submit the same comment or material by more than one means. If you submit them by mail or hand, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they were received, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and materials received during the comment period.

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Mr. John Mikesell at the address or phone number under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Background and Purpose

The Coast Guard announced the port access routes study in the **Federal Register** on January 20, 1999 (64 FR 3145). The purpose of the study is to evaluate the continued applicably of and the need for modifications to current vessel routing measures in and around the Strait of Juan de Fuca and adjacent waters including Admiralty Inlet, Rosario Strait, Haro Strait, Boundary Pass, and the Strait of Georgia. The goal of the study is to help reduce the risk of marine casualties and increase vessel traffic management efficiency in the study area. Study recommendations may lead to future rulemaking or appropriate international agreements.

Dated: April 8, 1999.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–9450 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Design Approval of Aircraft Data Communications Systems

AGENCY: Federal Aviation Administration, (DOT).

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and requests comments on proposed Advisory Circular (AC) 20–DC, Guidelines for Design Approval of Aircraft Data Communication Systems. The proposed AC provides guidelines for design approval of aircraft data communication systems and applications primarily used for Air Traffic Services (ATS). This AC is issued to provide installation guidelines and to outline a method of compliance with airworthiness standards contained in Title 14, Code of Federal Regulations (CFR), Chapter 1, Subchapter C.

DATES: Comments submitted must be received on or before May 24, 1999.

ADDRESSES: Send all comments on the proposed advisory circular to: Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue, SW, Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815,800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Michelle Swearingen, Federal Aviation Administration (FAA) Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue, SW, Washington, DC 20591, Telephone: (202) 267–3817, FAX: (202) 493–5173.

Comments Invited

Interested person are invited to comment on the proposed advisory circular listed in this notice by submitting such written data, views, or arguments, as they desire, to the specified address. Comments received on the proposed advisory circular may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW, Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final AC.

Background

The AC is intended to provide a means of compliance for both safety of flight, and non-safety of flight, data link communications. In addition to discussing the minimum control, display and alerting standards, this AC suggests that the applicant submit a description of the envisioned operational environment and subsequently perform a safety assessment. The resultant safety assessment classifications are then easily mapped into existing hardware and software design methodology for aircraft certification type design approval. A defined operational environment will form the basis for defining the interoperability expectations and allow for assessment of impact to the derived safety and performance assumptions.

The FAA is currently developing operational environment descriptions and safety assessment, interoperability and performance definitions for those services supported by the NAS infrastructure. The guidelines specified in this AC provide a means, but not the only means, of demonstrating compliance to Title 14, CFR, Chapter 1, Subchapter C, for airborne data link equipment installation on any airframe and intended for any data link service.

How To Obtain Copies

A copy of the proposed AC 20–DC may be obtained via Internet (http://www.faa.gov/avr/air/air100/100home.htm) or on request from the office listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on April 9, 1999.

Richard E. Jennings,

Acting Manager, Aircraft Engineering Division Aircraft Certification Service.

[FR Doc. 99–9430 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deadline for Submission of Application Under the Airport Improvement Program (AIP) for Fiscal Year 1999 for Sponsor Entitlement and Cargo Funds

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces May 1, 1999, as the deadline for each airport sponsor to have on file with the FAA an acceptable fiscal year 1999 grant application for funds apportioned to it under the AIP.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Lou, Manager, Programming Branch, Airports Financial Assistance Division, Office of Airport Planning and Programming, APP–520, on (202) 267–8809.

SUPPLEMENTARY INFORMATION: Section 47105(f) of Title 49, United States Code, provides that the sponsor of each airport to which funds are apportioned shall notify the Secretary by such time and in a form as prescribed by the Secretary, of the sponsor's intent to apply for the funds apportioned to it (entitlements). Notification of the sponsor's intent to apply during fiscal year 1999 for any of its available entitlement funds including those unused from prior years, shall be in the form of a project application submitted to the cognizant FAA Airports office no later than May 1, 1999.

This notice is promulgated to expedite and prioritize grants prior to the May 31, 1999, AIP expiration date as established by Public Law 106–6 (the Interim Federal Aviation Administration Authorization Act). Absent an acceptable application by May 1, FAA will defer an airport's entitlement funds until the next fiscal year. Pursuant to the authority and limitations in section 47117(g), FAA will issue discretionary grants in an aggregate amount not to exceed the aggregate amount of deferred entitlement funds.

In prior fiscal years, FAA has had sufficient program flexibility to permit sponsors to provide notice later than the deadline date, or to use entitlement funds later in a fiscal year in spite of filing no notice to that effect. In FY 1999, however, FAA must make all discretionary grant awards prior to June 1, 1999, including discretionary grants of entitlement funds that are available to, but will not be used by, the airport sponsors to which they have been apportioned. Airport sponsors that fail to notify FAA by the deadline date that they intend to use all or a portion of their entitlement funds in FY 1999 may have access to these funds in FY 1999 after May 31, only if legislation is enacted prior to October 1, 1999, to authorize the AIP beyond September 30. This includes prior year entitlement funds that remain available to an airport sponsor only through fiscal year 1999. In all other cases, airport sponsors may request unused entitlements after September 30, 1999.

The FAA views the receipt of this notice from the sponsors of primary commercial service airports as particularly important this fiscal year. The ability to use the contract authority associated with unused entitlement funds on a discretionary basis during the current truncated program will allow FAA to obligate additional critically needed AIP funds by May 31. This abbreviated ''year-end conversion'' will result in more discretionary dollars for airport development. For these reasons, the FAA will rely heavily upon the extent to which responses to the required notice indicate the availability of unused entitlement funds for discretionary use. Inasmuch as the FAA will be able to obligate these funds after May 31 as entitlements only with the enactment of follow-on authorizing legislation, sponsors are advised to give careful consideration to decisions related to the use of entitlement funds during fiscal year 1999.

Issued in Washington, DC on April 4, 1999.

Stan Lou,

Manager, Programming Branch.

[FR Doc. 99–9428 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Transcript of February 11, 1999, Public Meeting Regarding Draft Interim Safety Guidance for Reusable Launch Vehicles

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of a transcript from a public meeting held on February 11, 1999, at DOT Headquarters in Washington D.C., regarding draft interim safety guidance for reusable launch vehicles (RLVs). The Associate Administrator for Commercial Space Transportation (AST) developed the draft interim safety guidance for use by an applicant seeking a license to operate an RLV. The FAA held the public meeting for the purpose of gathering information from industry and the public generally concerning the safety objectives presented in the draft interim safety guidance. The transcript is filed under Docket Number 29140, at the FAA Rules Docket, in Room 915G of FAA Headquarters, 800 Independence Avenue, SW., Washington, DC 20591. The docket is available for inspection between 9:30 am and 5:00 pm, Monday through Friday, excluding Federal holidays. The transcript can also be viewed on the AST Website at *http://ast.faa.gov/.*

FOR FURTHER INFORMATION CONTACT: Brian Campbell (AST–200), Office of the Associate Administrator for Commercial Space Transportation (AST), 800 Independence Avenue SW, Room 331, Washington, DC 20591, telephone (202) 267–8464

Issued in Washington, DC on April 9, 1999.

Joseph A. Hawkins,

Deputy Associate Administrator for Commercial Space Transportation.

[FR Doc. 99–9429 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Columbia County, New York

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway

project in the Towns of Greenport and Stockport in Columbia County, New York.

FOR FURTHER INFORMATION CONTACT: Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone number (518) 431–4127, FAX—(518) 431–4121; or R.A. Dennison III, Regional Director, New York State Department of Transportation, Region 8, 4 Burnett Boulevard, Poughkeepsie, New York 12603, Telephone number (914) 431–5750, FAX—(914) 431–5703.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT), will prepare an Environmental Impact Statement (EIS) on a proposal to improve United States Route 9. The proposed improvement (Project Identification No. 8010.11) will involve the reconstruction of Route 9 from Graham Avenue in the Town of Greenport (near the City of Hudson border) north to Atlantic Avenue (County Route 20) in the Town of Stockport, a distance of 4.3 km (2.7 mi). The project will address existing traffic operation and safety problems, projected future increases in traffic demand and identified needed highway improvements.

Alternatives under consideration include (1) taking no action, (2) widening the existing two-lane highway to three lanes, (3) widening the existing two-lane highway to five lanes, and (4) widening the existing two-lane highway to four lanes with a raised median with turn lanes. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. No formal scoping meeting is planned at this time. A public information meeting will be held after further study. In addition, a public hearing will be held. Public notice will be given of the time and place of the hearing. The draft EIS will be made available for agency and public review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or NYSDOT at the addresses provided herein.

(Catalog of Federal Domestic Assistance Program Number 20.205; Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Authority: 23 U.S.C. 315:23 U.S.C. 777.123.

Robert E. Arnold,

District Engineer, Federal Highway Administration, Albany, New York.

[FR Doc. 99–9421 Filed 4–14–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection: Comment Request; Cargo Declaration and Cargo Declaration (Outward With Commercial Forms)

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Cargo Declaration and Cargo Declaration (Outward With Commercial Forms). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before June 14, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Cargo Declaration.

OMB Number: 1515–0078.

Form Number: CF 1302 and 1302A.

Abstract: This information collection is used by Customs for the control of cargo and pre-selectivity targeting of cargo for enforcement purposes. Customs Forms 1302 and 1302A are used by the master of a vessel to list all inward cargo onboard and for the clearance of all cargo onboard with commercial forms.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 140,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 11,662.

Estimated Annualized Cost to the Public: $171,000.

Dated: April 5, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–9351 Filed 4–14–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Line Release Regulations

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Line Release Regulations. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 14, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Line Release Regulations.

OMB Number: 1515–0181.

Form Number: N/A.

Abstract: Line release was developed to release and track high volume and repetitive shipments using bar code technology and PCS. An application is submitted to Customs by the filer and a common commodity classification code (C4) is assigned to the application.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 25,700.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 6,425.

Estimated Total Annualized Cost on the Public: N/A.

Dated: April 5, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–9352 Filed 4–14–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Request for Temporary Identification Card

AGENCY: U.S. Customs, Department of the Treasury

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Request for Temporary Identification Card. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 14, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Request for Temporary Identification Card.

OMB Number: 1515–0128.

Form Number: N/A.

Abstract: Cartmen, Lightermen, and airport employers may request a temporary identification card to be issued to their employees if they can show that a hardship to their business would result pending the issuance of a permanent identification card.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 150.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 300.

Estimated Total Annualized Cost on the Public: N/A.

Dated: April 5, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–9353 Filed 4–14–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Report of Diversion

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Report of Diversion. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 14, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Report of Diversion.

OMB Number: 1515–0071.

Form Number: Customs Form 25.

Abstract: Customs uses CF 26 to track vessels traveling coastwise from U.S ports to other U.S. ports when a change occurs in scheduled itineraries. This is required for enforcement of the Jones Act (46 U.S.C. App. 883) and for continuity of vessel manifest information and permits to proceed actions.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 7,500.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 1,250.

Estimated Total Annualized Cost on the Public: N/A.

Dated: April 5, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–9354 Filed 4–14–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Entry Summary and Continuation Sheet

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Entry Summary and Continuation Sheet. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before June 14, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Entry Summary and Continuation Sheet.

OMB Number: 1515–0065.

Form Number: Customs Form 7501, 7501A.

Abstract: Customs Form 7501 is used by Customs as a record of the impact transaction, to collect proper duty, taxes, exactions, certifications and enforcement endorsements, and to provide copies to Census for statistical purposes.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondent: 14,926,364.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours:, 4,970,479.

Estimated Annualized Cost to the Public: $101,890,506.

Dated: April 5, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–9355 Filed 4–14–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Master's Oath of Vessel in Foreign Trade

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Master's Oath of Vessel in Foreign Trade. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before June 14, 1999.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 Pub. L. 104–13, 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Master's Oath of Vessel in Foreign Trade.

OMB Number: 1515–0060.

Form Number: Customs Form 1300.

Abstract: CF–1300 is used by the master of a vessel to attest to the truthfulness of all other forms associated with the manifest. The form also serves to record information on the tonnage tax to prevent overpayment of that tax.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 12,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours. 21, 991.

Estimated Annualized Cost to the Public: $285,820.

Dated: April 5, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–9408 Filed 4–14–99; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 99–21

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 99–21, Disability Suspension.

DATES: Written comments should be received on or before June 14, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Disability Suspension.

OMB Number: 1545–1649.

Revenue Procedure Number: Revenue Procedure 99–21.

Abstract: Revenue Procedure 99–21 describes the information that is needed to establish a claim that a taxpayer was financially disabled for purposes of section 6511(h) of the Internal Revenue Code. Under section 6651(h), the statute of limitations on claims for credit or refund is suspended for any period of an individual taxpayer's life during which the taxpayer is unable to manage his or her financial affairs because of a medically determinable mental or physical impairment, if the impairment can be expected to result in death, or has lasted (or can be expected to last) for a continuous period of not less than 12 months. Section 6511(h)(2)(A) requires that proof of the taxpayer's financial disability be furnished to the Internal Revenue Service.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 48,200.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 24,100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 8, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–9451 Filed 4–14–99; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Publication 3319

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Publication 3319, Low-Income Taxpayer Clinics—1999 Grant Application Package and Guidelines.

DATES: Written comments should be received on or before June 14, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of Publication 3319 should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224. Copies of the publication can also be downloaded from the IRS Internet site at: http://www.irs.ustreas.gov.

SUPPLEMENTARY INFORMATION:

Title: Low-Income Taxpayer Clinics—1999 Grant Application Package and Guidelines.

OMB Number: 1545–1648.

Publication Number: Publication 3319.

Abstract: Publication 3319 outlines requirements of the IRS Low-Income Taxpayer Clinics (LITC) program and provides instructions on how to apply for a LITC grant award. The IRS will review the information provided by applicants to determine whether to award grants for the Low-Income Taxpayer Clinics.

Current Actions: There are no changes being made to the publication at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not for-profit institutions.

Estimated Number of Respondents: 825.

Estimated Time For Program Sponsors: 60 hours.

Estimated Time For Student and Program Participants: 2 hours.

Estimated Total Annual Burden Hours: 6,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 9, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–9452 Filed 4–14–99; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register

Vol. 64, No. 72

Thursday, April 15, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302–11

[FTR Amendment 80--1998 Edition]

RIN 3090-AG91

Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables

Correction

In rule document 99–8685 beginning on page 17105, in the issue of Thursday, April 8, 1999 make the following corrections:

Appendix B to Part 302–11 [Corrected]

1. On page 17106, in the table, in the second column, in the entry for ''Minnesota'', ''8'' should read''6''.

2. On the same page, in the table, in the third column, in the entry ''If single status[3]'' under ''Minnesota'', ''8.5'' should read ''8''.

[FR Doc. C9–8685 Filed 4–14–99; 8:45 am]

BILLING CODE 1505–01–D

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

Correction

In notice document 99–8996, appearing on page 17688, in the issue of Monday, April 12, 1999, make the following correction:

On page 17688, in the second column, in the fourth line, ''(www.MedPCA.gov).'' should read ''(www.MedPAC.gov).''

[FR Doc. C9–8996 Filed 4-14-99; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday
April 15, 1999

Part II

Department of Labor

Employment and Training Administration

20 CFR Part 652, et al.
Workforce Investment Act; Interim Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 652 and Parts 660 through 671

RIN 1205–AB20

Workforce Investment Act

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Interim Final Rule; request for comments.

SUMMARY: The Department of Labor (DOL) is issuing an Interim Final Rule implementing provisions of titles I, III and V of the Workforce Investment Act. Through these regulations, the Department implements the first major reform of the nation's job training system in more than 15 years. Key components of this reform include streamlining services through a One-Stop service delivery, empowering individuals through information and access to training resources through Individual Training Accounts, providing universal access to core services, increasing accountability for results, ensuring a strong role for Local Boards and the private sector in the workforce investment system, facilitating State and local flexibility, and improving youth programs.

DATES: This Interim Final Rule will become effective on May 17, 1999.

Comment Period: Comments must be submitted by July 14, 1999. The Department cannot guarantee that comments received after this date will be considered. Comments that are less than 10 pages in length may be transmitted via a facsimile at (202) 219–0323 provided that submission of written text follows. Commenters wishing acknowledgment of receipt of their comments must submit them by certified mail, return receipt requested. Also, comments may be sent electronically using the Internet web page at http://usworkforce.org.

ADDRESSES: Submit written comments to the Employment and Training Administration, Workforce Investment Act Implementation Taskforce, 200 Constitution Avenue, NW, Room S5513, Washington, DC 20210, *Attention:* Eric Johnson.

All comments will be available for public inspection and copying during normal business hours at the Employment and Training Administration, Workforce Investment Act Implementation Taskforce, 200 Constitution Avenue, NW, Room S5513, Washington, DC 20210. Copies of the Interim Final Rule are available in alternate formats of large print and electronic file on computer disk, which may be obtained at the above-stated address. The Interim Final Rule is also available on the WIA website at http://usworkforce.org

In compliance with 28 U.S.C. 2112(a), the Employment and Training Administration designates the Associate Solicitor for Employment and Training Services, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–2101, Washington, DC 20210, as the recipient of petitions to review this Interim Final Rule.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Johnson, Workforce Investment Act Implementation Taskforce Office, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S5513, Washington, DC 20210, Telephone: (202) 219–0316 (voice) (this is not a toll-free number) or 1–800–326–2577 (TDD).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Certain sections of this Interim Final Rule, such as §§ 667.300, 667.900, 668.800, and 669.570 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Labor has submitted a copy of these sections to the Office of Management and Budget for its review. Comments must be submitted by May 17, 1999 to: Desk Officer for the Department of Labor, Employment Training Administration, Office of Management and Budget, 725 17th Street, NW (Rm 10235), Washington DC 20503. Affected parties do not have to comply with the information collection requirements in this document until DOL publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB). Publication of the control numbers notifies the public that OMB has approved this information collection requirement under the Paperwork Reduction Act of 1995. An OMB control number (1205–0398) was issued for the WIA state planning guidance authorized under 20 CFR 661.220, and published at 64 FR 9402 (Feb. 25, 1999).

I. Background

A. WIA Principles

On August 7, 1998, President Clinton signed the Workforce Investment Act of 1998 (WIA), comprehensive reform legislation that supersedes the Job Training Partnership Act (JTPA) and amends the Wagner-Peyser Act. The WIA also contains the Adult Education and Family Literacy Act (title II) and the Rehabilitation Act Amendments of 1998 (title IV). Guidance or regulations implementing titles II and IV will be issued by the Department of Education.

The WIA reforms Federal job training programs and creates a new, comprehensive workforce investment system. The reformed system is intended to be customer-focused, to help Americans access the tools they need to manage their careers through information and high quality services, and to help U.S. companies find skilled workers.

This new law embodies seven key principles. They are:

- *Streamlining services* through better integration at the street level in the One-Stop delivery system. Programs and providers will co-locate, coordinate and integrate activities and information, so that the system as a whole is coherent and accessible for individuals and businesses alike.
- *Empowering individuals* in several ways. First, eligible adults are given financial power to use Individual Training Accounts (ITA's) at qualified institutions. These ITA's supplement financial aid already available through other sources, or, if no other financial aid is available, they may pay for all the costs of training. Second, individuals are empowered with greater levels of information and guidance, through a system of consumer reports providing key information on the performance outcomes of training and education providers. Third, individuals are empowered through the advice, guidance, and support available through the One-Stop system, and the activities of One-Stop partners.
- *Universal access.* Any individual will have access to the One-Stop system and to core employment-related services. Information about job vacancies, career options, student financial aid, relevant employment trends, and instruction on how to conduct a job search, write a resume, or interview with an employer is available to any job seeker in the U.S., or anyone who wants to advance his or her career.
- *Increased accountability.* The goal of the Act is to increase employment, retention, and earnings of participants, and in doing so, improve the quality of the workforce to sustain economic growth, enhance productivity and competitiveness, and reduce welfare dependency. Consistent with this goal, the Act identifies core indicators of performance that State and local entities managing the workforce investment system must meet—or suffer sanctions. However, State and local entities

exceeding the performance levels can receive incentive funds. Training providers and their programs also have to demonstrate successful performance to remain eligible to receive funds under the Act. And participants, with their ITA's, have the opportunity to make training choices based on program outcomes. To survive in the market, training providers must make accountability for performance and customer satisfaction a top priority.

- *Strong role for local workforce investment boards and the private sector,* with local, business-led boards acting as ''boards of directors,'' focusing on strategic planning, policy development and oversight of the local workforce investment system. Business and labor have an immediate and direct stake in the quality of the workforce investment system. Their active involvement is critical to the provision of essential data on what skills are in demand, what jobs are available, what career fields are expanding, and the identification and development of programs that best meet local employer needs. Highly successful private industry councils under JTPA exhibit these characteristics now. Under WIA, this will become the norm.
- *State and local flexibility.* States and localities have increased flexibility, with significant authority reserved for the Governor and chief elected officials, to build on existing reforms in order to implement innovative and comprehensive workforce investment systems tailored to meet the particular needs of local and regional labor markets.
- *Improved youth programs* linked more closely to local labor market needs and community youth programs and services, and with strong connections between academic and occupational learning. Youth programs include activities that promote youth development and citizenship, such as leadership development through voluntary community service opportunities; adult mentoring and followup; and targeted opportunities for youth living in high poverty areas.

Many States and local areas have already taken great strides in implementing these principles, supported by grants from the Department of Labor to build One-Stop service delivery systems and school-to-work transition systems. The Act builds on these reforms and ensures that they will be available throughout the country.

The Department wishes to emphasize that it considers the reforms embodied in the Workforce Investment Act to be pivotal, and not ''business as usual.'' This legislation provides unprecedented opportunity for major reforms that can result in a reinvigorated, integrated workforce investment system. States and local communities, together with business, labor, community-based organizations, educational institutions, and other partners, must seize this historic opportunity by thinking expansively as they design a customer-focused, comprehensive delivery system.

The success of the reformed workforce investment system is dependent on the development of true partnerships and honest collaboration at all levels and among all stakeholders. While the Workforce Investment Act and these regulations assign specific roles and responsibilities to specific entities, for the system to realize its potential necessitates moving beyond current categorical configurations and institutional interests. Also, it is imperative that input is received from all stakeholders and the public at each stage of the development of State and local workforce investment systems.

The cornerstone of the new workforce investment system is One-Stop service delivery which unifies numerous training, education and employment programs into a single, customer-friendly system in each community. The underlying notion of One-Stop is the coordination of programs, services and governance structures so that the customer has access to a seamless system of workforce investment services. It is envisioned that a variety of programs could use common intake, case management and job development systems in order to take full advantage of the One-Stops' potential for efficiency and effectiveness. A wide range of services from a variety of training and employment programs will be available to meet the needs of employers and job seekers. The challenge in making One-Stop live up to its potential is to make sure that the State and Local Boards can effectively coordinate and collaborate with the network of other service agencies, including TANF agencies, transportation agencies and providers, metropolitan planning organizations, child care agencies, nonprofit and community partners, and the broad range of partners who work with youth.

B. Early Implementation

Many States have expressed interest in which features of WIA may be phased-in after approval of the State workforce investment plan, and how long they will have before they must be in full compliance.

- The planning guidance (which was published in the **Federal Register** on February 25, 1999) and regulations specify that States may submit a State workforce investment plan to the Department for approval at any time between April 1, 1999 and April 1, 2000. For those States that plan to transition to WIA prior to July 1, 2000, and do not have all policies, procedures and systems fully developed, the State may submit a Transition Plan that outlines when the State expects to have each of the WIA components (for example, the One-Stop system, or the Individual Training Account system) fully operational. All components must be in place by July 1, 2000. Under this option, the Department will conditionally approve the State workforce investment plan. The State workforce investment plan will be fully approved once all of the WIA components are in place. This option provides some flexibility for early implementing States, while ensuring that full implementation is completed for all States by July 1, 2000.
- States and local areas may use the current waiver authority and allowable activities under JTPA, to plan for and implement WIA reforms. Activities that are allowable during this phase include: (1) Strategic planning; (2) establishment of State and local workforce investment boards; (3) consultation with One-Stop partners; (4) establishment of ITA systems; and (5) establishment of consumer report systems.
- Because JTPA title II youth funds are available for obligation on April 1, 1999, the Calendar Year 1999 Summer Youth Employment and Training Program, and JTPA title II–C youth program allocations have been made and are to be allocated by States to local areas under the JTPA rules. The Department will issue transition guidance which will provide further direction and specification.
- A 90 percent hold harmless provision for within-State allocations for the youth and adult funding streams, that is based on allocations in the first two years of WIA operation, becomes effective in the third year a State operates under WIA. Structured to facilitate creation of new local areas by freeing States from allocation formulas established under JTPA, there is no hold harmless provision effective in the first two years of a state's WIA implementation that would cover the transition period from JTPA. The lack of a hold harmless provision during this period could result in some instability during the early stages of WIA implementation. However, Governors do have options available to promote stability. For program year 1999 only, the Governor may elect to utilize the

JTPA hold harmless provision. However, in doing so, the two year hold harmless is delayed for one year. Therefore, if a State elects to use this option, the two year hold harmless would apply for PY 2000 and 2001 unless Congress decides to address this area with a technical amendment. Also, Governors may use some of their 15 percent State reserve funds to assist local areas that are negatively impacted by the WIA funding formulas, or choose to adopt an adult or youth within-State allocation formula that incorporates additional targeting factors, provided for in sections 128 and 133 of WIA.

C. Rule Format

The format, as well as the substance, of the Interim Final Rule, reflects the Administration's commitment to regulatory reform and to writing regulations that are reader-friendly. The Department has attempted to make these regulations clear and easy to understand, as well as to anticipate issues that may arise and to provide appropriate direction. To this end, the regulatory text is presented in a ''question and answer'' format. The Department has organized the regulations in a way that will help those who must implement the new system to recognize the various steps they must take as they develop the organization and services that make up the workforce investment system. In many cases, the provisions of WIA are not repeated in these regulations. As requested by some interested parties, however, in a number of instances, it was determined that the regulations would provide context and be more reader-friendly if the Act's provisions were included in an answer rather than merely cross-referencing the statute.

Section 506(c)(1) of the Act requires the Secretary of Labor to issue this Interim Final Rule implementing provisions of the WIA under the Department's purview within 180 days of enactment. WIA also requires that final regulations be published by December 31, 1999. Under Secretary of Labor's Order No. 4–75, the Assistant Secretary for Employment and Training has been delegated the responsibility to carry out WIA policies, programs, and activities for the Secretary of Labor.

Given the short time frame imposed, the Department has employed a variety of means to initiate extensive coordination with other Federal agencies that have roles and responsibilities under the Workforce Investment Act. In addition, the Department of Labor, the Department of Education, the Department of Health and Human Services, the Department of Transportation, and the Department of Housing and Urban Development continue to meet on a regular basis to resolve issues surrounding the development of the Interim Final Rule and WIA implementation.

The Department also requested and received input from a broad range of sources regarding guidance on how to comply with a number of WIA statutory provisions. The Department solicited broad input on WIA implementation through a variety of mechanisms: establishing a website to encourage input; publishing a **Federal Register** notice on September 15, 1998, conducting regional and national panel discussions in October 1998; publishing a White Paper announcing goals and principles governing implementation; posting issues on the usworkforce.org website; sharing a discussion draft of regulatory issues with stakeholders; holding town hall meetings across the country in December 1998; conducting several workgroups in December 1998; and issuing draft Planning Guidance in December 1998.

A number of the suggestions received are discussed in the Summary and Explanation of the individual provisions of the Interim Final Rule. However, because of the large volume of suggestions received and the short time allowed for preparation of the regulations, as well as the fact that suggestions continue to be received, it was not possible to address each one. Where input has not been addressed, it will be considered along with comments on the Interim Final Rule before publication of the Final Rule. Also, the Department will ensure that there are other opportunities for public input and dialogue on the important issues surrounding implementation of the Workforce Investment Act prior to the publication of the Final Rule.

The Department has determined that this Interim Final Rule, as promulgated, complies with the WIA statutory mandate and provides effective direction for the implementation of WIA programs. ETA will review all comments received in the development of and response to the Interim Final Rule, as well as the experience of early implementing States, in considering what further action is necessary in promulgating a Final Rule.

II. Summary and Explanation

This section describes and explains the specific provisions of the Interim Final Rule. The explanatory text, in general, adheres closely to the corresponding WIA statutory and regulatory language. A supporting rationale is provided in those instances where the Rule promulgates specific provisions to fulfill the requirements of the WIA statute.

The Department has set regulations only where they are necessary to clarify or to explain how the Department intends to interpret the WIA statute, to provide context for interpretations or to provide a clear statement of the Act's requirements. In several instances—for example, the Indian and Native American Programs, and Migrant and Seasonal Farmworker Programs—the regulations were developed in consultation with advisory councils and are more comprehensive in order to assist those grantees. Consistent with the Act, the Interim Final Rule provides the States and local governments with the primary responsibility to initiate and develop program implementation procedures and policy guidance regarding WIA administration. The Department has not defined what constitutes many of the activities under the Act in order to provide policy-making flexibility to States and local areas. Section 661.120 formalizes this flexibility in the regulations.

Description of Regulatory Provisions

The Rule adds 12 new parts to the Code of Federal Regulations, and a new subpart to the existing Wagner-Peyser Act regulations. Parts 660–672 are organized by subject matter; for example, 661 describes State and local system design, 667 contains administrative requirements applicable to WIA title I funds, and 669 describes requirements particularly applicable to Migrant and Seasonal Farmworker programs. This discussion section follows that organizational structure.

Part 660—Introduction to the Regulations for the Workforce Investment Systems Under Title I of the Workforce Investment Act

Part 660 discusses the purpose of title I of the Workforce Investment Act, explains the format of the regulations governing title I, and provides definitions which are not found in the Act. Sections 101, 142, 166(b), 167(h) 301 and 502 of the Act contain additional definitions. Among the regulatory definitions, the Department has defined the term ''register'' in order to clarify that programs do not need to register participants until they receive a core service beyond those that are self-service or informational. This point in time also corresponds to the point when the EEO data must be collected, when the eligibility definition begins, and when the participants are counted for performance measurement purposes.

Part 661—Statewide and Local Governance of the Workforce Investment System Under Title I of the Workforce Investment Act

Introduction

This part covers the critical underpinnings of how the workforce investment system is organized under WIA at the State and local levels. Specifically, it consists of four subparts—General Governance, State Governance, Local Governance Provisions and Waiver Provisions. The General Governance subpart broadly describes the WIA system and sets forth the roles of the governmental partners. The State and local subparts cover the State and local workforce investment boards and the designation process, including alternative entities, and the planning requirements. The waiver subpart discusses the processes for obtaining general and work-flex waivers.

Subpart A—General Governance Provisions

1. Subpart A describes the workforce investment system, and sets forth the roles of the government partners in the system: the Federal government, State governments and local governments. The workforce investment system is the method of delivery of workforce investment activities to individuals under title I of WIA, and is composed of State and local workforce investment boards, local workforce investment areas, and the One-Stop system. Through the One-Stop system, the workforce investment system is a gateway to a wide variety of employment, training, educational and other human resource programs. In the Department's view, close cooperation and coordination among the Federal, State and local government partners are essential to the system's success in providing services to those who need them. Sections 661.110 and 661.120, describe, in general terms, the roles of the government partners. The Department sees one of its roles as Federal partner as providing leadership, guidance and support to the system, so that State and local governmental partners can better respond to the needs of customers. To that end, the WIA regulations are intended to provide a framework in which States and local partners may design systems and deliver services in ways that best achieve the goals of WIA based on particular need. Thus, whenever possible, items such as design options and categories of service are not narrowly defined in the regulations. Section 660.120 provides authority to State and local governments to establish their own policies, interpretations, guidelines and definitions relating to program operations under title I, as long as they are not inconsistent with WIA or the regulations, and, in the case of local governments, not inconsistent with State policies. To assist with such interpretations, the Department, with the participation of other Federal agencies, as appropriate, will issue technical assistance guidance to help States and localities interpret WIA and the regulations. Such guidance is not intended to limit State flexibility, but rather is intended to provide helpful models on which States and local governments can rely to ensure that their own interpretations are not inconsistent with the Act and regulations.

Subpart B—State Governance Provisions

1. *State Workforce Investment Board:* Sections 661.200—661.210 describe the membership requirements and responsibilities of the State Workforce Investment Board (State Board) and procedures regarding designation of an alternative entity to perform the functions of the State Board. The role of the State Board is to assist the Governor in the development of the State workforce investment plan (State Plan) and to carry out the additional functions described in WIA section 111(d). Section 661.200 describes the membership requirements of the State Board. This section clarifies that State Boards must contain two or more members from each of the representative categories described in sections 111(b)(1)(C)(iii)–(v) of WIA. These categories are labor organizations, individuals and organizations that have experience with youth activities, and individuals and organizations that have experience and expertise in the delivery of workforce investment activities. The Rule requires that, in appointing representatives with experience in workforce investment activities, special consideration be given to chief executive officers of community colleges and community-based organizations in the State. The Department acknowledges the special expertise that the community college system brings to the workforce investment system. The Department foresees a strong role for community colleges across states and in local areas and encourages states and local areas to appoint presidents and executive officers of the state community college system and local community colleges to the State and Local Workforce Investment Boards. The Department also emphasizes the importance of including the director of the state agency responsible for TANF on the State Board, in order to foster linkages between WIA and TANF, and to facilitate participation of TANF in One-Stop systems in the state.

The Department also received suggestions concerning the representation of the State Vocational Rehabilitation Services program, a required One-Stop partner, on the State Board. Individuals with disabilities represent a large untapped potential workforce, and the workforce needs of this group is of significant importance to the Department and other Federal agencies. To signal the importance of this issue, the Presidential Taskforce on Employment of Adults with Disabilities was formed in 1998. In light of this emphasis on increasing the employment rate for individuals with disabilities as well as the complexity of the organizational requirements applicable to this program, the director of the designated State unit under section 101(a)(2)(B)(ii)(II) of the Rehabilitation Act, if a State has such a unit, should be considered the lead State agency official with responsibility for the State's vocational rehabilitation program and, therefore, should serve on the State Board. In addition, a program operated by a State agency for the blind or by a designated State unit for the blind should be considered a separate program for purposes of appointing members to the State Board under WIA section 111. Among the contributions the unit head(s) would make as a member of the State Board is assisting in the development of the State performance measures. The expertise of the unit head(s) would be particularly useful since the Department, in coordination with the Department of Education, will be working on the development of an additional performance indicator focusing on individuals with disabilities that may be used by States under title I of WIA. The Department of Labor and the Department of Education will work with the States as they develop and implement their State plans to ensure the effective delivery of services under the WIA to individuals with disabilities. The Department will also be conducting a study of WIA implementation that will include a review of the manner and extent to which Vocational Rehabilitation programs are integrated in the workforce investment system, and how effectively the system serves individuals with disabilities.

As discussed below, regarding local workforce investment board (Local Board) membership requirements, the

Department received substantial input expressing concern that the statutory membership requirements relating to the State and local boards will lead to large, unmanageable State and Local Boards. In contrast, others thought larger boards would be better in representing a wider array of interests. The Department recognizes this concern, and, although constrained by the statutory requirements that each category of membership contain more than one representative and a business majority, the Department has avoided adding additional requirements relating to the number of members required. The Department believes that problems associated with large board size can be addressed in a number of ways, such as the use of committees. The Department will be providing technical assistance on creative approaches State and Local Boards may wish to consider in addressing this issue.

2. *Alternative Entities:* The Department believes that changing from existing JTPA boards and councils to State Boards meeting the requirements of WIA section 111(b) is essential to the reforms of WIA. The Department encourages all States to create new, fully functional State Boards as early as possible, and is committed to providing assistance to States to make such changes. In order to accommodate States that have already begun to reform their boards prior to the enactment of WIA, the statute provides an option to use an existing entity to carry out the functions of the State Board. Section 661.210 describes the requirements relating to the appointment of this alternative entity. Because of questions regarding the application of these requirements, paragraph (b) of § 661.210 makes clear that an alternative entity must meet each of the three criteria set forth in WIA section 111(e). The three criteria are that the entity: (1) Was in existence on December 31, 1997; (2)(a) was established pursuant to section 122 or title VII of the Job Training Partnership Act, as in effect on December 31, 1997, or (b) is substantially similar to the State Board as described in subsections (a), (b), and (c) of WIA section 111; and (3) includes representatives of business in the state and representatives of labor organizations in the state. An entity which fails to meet any one of the criteria is not eligible to perform the functions of the State Board. A key requirement for an alternative entity that was not created under JTPA, is that it be substantially similar to the Boards required under WIA. The Department considered various ways to define the term ''substantially similar'' but, in the end, decided to leave the term undefined. All groups required for membership on Workforce Investment Boards are equally important and the Department sees alternative entities as a transitional phase during which states can operate until a new Board is appointed.

While an alternative entity need not contain the identical membership structure required of State Boards, in the Department's view it is important that each of the groups listed in WIA section 111(b) have a role in the workforce investment system if the system is to be successful. Therefore, the Rule requires that if the Governor identifies an alternative entity, the State Plan must explain how the State will ensure the ongoing participation of any omitted membership groups in the functions of State workforce investment system. While this Rule does not mean that omitted groups must be seated on an alternative entity, it does require that the State Plan describe how these groups will have an opportunity for meaningful input into decisions made by the State Board.

Paragraph (d) of § 661.210 amplifies the requirement that an alternative entity must have been established by and in existence on December 31, 1997. Because of this requirement, modifications to the alternative entity are not allowed; a change to the membership structure after December 31, 1997 will invalidate the entity's eligibility as an alternative entity. The membership structure is not considered to be changed when an existing member leaves the board and a replacement member is appointed. However, the membership structure is considered to be changed when a change is made to the organizational structure of the State Board that requires a change (whether the change is formally made or not) in the State Board's charter or to a similar document that defines the organizational structure of the State Board, such as appointing members of a category not previously represented. In such a case, the entity would no longer be eligible to perform the functions of the State Board and a new entity, meeting all the requirements of section 111 of WIA must be created. This prevents piecemeal modification of alternative entities that would add certain section 111(b) membership categories but not others.

3. *State Workforce Investment Plan Requirements:* Sections 661.220 and 661.230, describe the requirements for submission, approval and modification of the State workforce investment plan. The State Plan must be submitted in accordance with planning guidelines to be issued by the Secretary, and must be developed through an open public comment process. The State Plan must document the timeline and the steps taken to ensure the opportunity for meaningful public comment. The Department intends that the information contained in the State Plan be subject to the broadest possible stakeholder involvement in policy development and the broadest possible range of public comment. The planning guidelines set forth the information needed for the Secretary to make an informed judgment as to whether a State Plan is consistent with WIA. The Rule restates the statutory language regarding the process for State Plan approval. All plans must be approved within 90 days unless the Secretary determines in writing that the State Plan is inconsistent with the provisions of title I of WIA and its implementing regulations or it does not satisfy the State Plan approval requirements of the Wagner-Peyser Act and its implementing regulations. This reflects changes made by the technical corrections added in the Omnibus Appropriations Act for FY 1999, which clarified that the State plan will not be approved if it fails to meet the requirements of either WIA or the Wagner-Peyser Act rather than only when it fails to meet both. Failure to have completed negotiations with the Secretary of Labor on performance measures means the plan is not consistent with title I of WIA. A state's failure to have an effective strategy in place to ensure the development of a fully operational One-Stop delivery system in the state also means the state plan is not consistent with WIA title I. An important part of this strategy is an impasse procedure designed to facilitate collaboration and coordination between One-Stop partners at the local level.

4. *State Plan Modifications:* Section 661.230 provides the approval process for State Plan modifications. It clarifies that modifications may be made at any time during the life of the State Plan, and must be made upon certain conditions. Because the State Plan is a five year strategic plan and designed to be a living document, it is likely that assumptions based upon such things as State or Federal policy, economic conditions, performance goals, State and local organizational structures and/or State and local needs may change during the course of the State Plan. The provision for a five year State Plan was intended to reduce paperwork burdens on the States. Accordingly, only significant changes require a modification. Examples are: changes in performance indicators, changes in the

methodology used to determine local allocation of funds, or changes to the membership structure of the State Board or alternative entity. Modifications triggered by significant changes will be subject to the same review process as the original State Plan. While it is impossible to foresee all such changes that may occur during a five year period, through timely modifications of the State Plan, State strategies can continue to guide Local Board policy development. The Secretary must approve all State Plan modifications unless the disapproval criteria in § 661.220 are met.

5. *Local Workforce Investment Area Designation Requirements:* Sections 661.250 through 661.280 discuss the requirements applicable to the designation of local workforce investment areas. The Rule tracks the statutory language regarding the State Board recommendation and Governor's approval process for designation. It refers to the statutory provisions regarding automatic designation of areas with a population of 500,000 or more (that request designation) at section 116(a)(2) of WIA and temporary and subsequent designation of JTPA service delivery areas meeting certain performance criteria (that request designation) at section 116(a)(3) of WIA. The statute prohibits the Department from further regulating on the standards and criteria for temporary and subsequent designation and requires the Department to provide the States with technical assistance to make the designations. The regulations restate the statutory language regarding the rights of areas to appeal the denial of a request for automatic or temporary and subsequent designation as a local workforce investment area.

6. *Regional Planning Activities:* Section 661.290 describes the circumstances in which the State may require Local Boards to take part in regional planning activities. This provision permits States to undertake methods to improve performance across area boundaries by requiring local areas to engage in a regional planning process to share employment-related information and to coordinate the provision of local services pursuant to that regional planning. The regulation follows the statutory language regarding the requirements for regional planning, and permits regional planning to occur across State boundaries. Section 661.290 clarifies that Local Boards which are part of State-designated regional planning areas must participate in regional planning activities. However, to strike a balance, the regulation also provides that regional planning and performance requirements may not substitute for the local planning and performance requirements unless the affected chief elected officials and the Governor agree to that substitution.

Subpart C—Local Governance Provisions

This Subpart covers the designation of local workforce investment areas and the responsibilities and membership requirements of local boards.

1. *Role of the Local Workforce Investment Board:* Under WIA, the Local Board, in partnership with the chief elected official, is responsible for setting policy and overseeing workforce investment programs for a workforce investment area. Sections 661.300 and 661.305 reiterate the roles and responsibilities of Local Boards. There was some concern expressed that the Local Board activities be carried out in an open manner which encourages public comment and participation. The Department responds to these concerns by restating the WIA section 117(e) ''sunshine provision'' in § 661.305(d).

2. *Local Boards as Service Providers:* Section 117(f)(1) of WIA places limitations on Local Boards' direct provision of core services, intensive services, or training services. In response to requests for clarification, § 661.310(c) specifies that the prohibition related to providing core, intensive and training services by the Local Board also applies to the staff of the Local Board. This regulation also cites the statutory provision allowing a Local Board to be designated or certified as a One-Stop operator only with the agreement of the chief elected official and the Governor.

3. *Membership Requirements:* Section 661.315 of the regulations addresses the membership requirements for the Local Board that are contained in section 117(b) of WIA. There were suggestions on several issues related to the required membership of the Local Board, particularly as to how the terms ''representatives'' and ''including'' would be defined.

Representatives: Some parties expressed the view that the term ''representatives,'' as used in section 117(b)(2)(A) (ii)–(v) of WIA, requires that there be multiple representatives from each of the specified entities. While others wanted a more restrictive definition, the regulations specify that the Local Board must contain two or more members representing the categories described in section 117(b)(2)(A) (ii)–(v) of WIA. These categories cover different types of local educational entities, labor organizations, community-based organizations (including those representing individuals with disabilities and veterans), and economic development agencies.

Including: There also were many questions on the meaning of the term ''including'' as it is used in WIA section 117(b). Some expressed the view that each of the entities following the word ''including'' in section 117(b)(2)(A)(ii), (iv), and (v) of WIA must be a required member of the Local Board, while others disagreed with this interpretation. The regulations address this issue by requiring that special consideration be given to including representatives of community colleges in the selection of members representing local educational entities; to including representatives of organizations representing individuals with disabilities and veterans, in selection of members representing community-based organizations; and representatives of private sector economic development entities in selecting representatives of economic development agencies. The regulations do not mandate a membership seat for each such entity.

Board Size: The Department heard many concerns that the statutory membership requirements relating to Local Boards will lead to large, unwieldy, and unmanageable Local Boards. The Department recognizes this concern, and while the Department is constrained by the statutory requirements that each category of membership contain more than one representative and that the board contain a business majority, the Department has not added additional regulatory requirements on the number of members required. The Department believes that problems associated with large board size can be addressed in a number of ways, such as through the use of committees. The Department will provide technical assistance on creative approaches State and Local Boards may wish to consider in addressing this issue.

4. *Alternative Entity:* The Department believes that changing from existing JTPA Private Industry Councils to local workforce investment boards is essential to the reforms of WIA. The Department strongly encourages all eligible areas to create new, fully functional Local Boards as early as possible, and is committed to providing assistance to facilitate such changes. However, the Department recognizes that the statute provides an option to use an existing entity to carry out the functions of the Local Board. Section 661.330 describes the requirements relating to the appointment of such an alternative entity. Because of questions regarding

the application of these requirements, paragraph (a) of § 661.330 makes clear that an alternative entity must meet each of the four criteria set forth in WIA section 117(i), including the requirement that the alternative entity must have been established by December 31, 1997. An entity which fails to meet any one of these criteria is not eligible to perform the functions of the Local Board.

While an alternative entity need not contain the identical membership structure as that required of Local Boards, section 117(i)(1)(c)(ii) does require the alternative entity to be substantially similar to the Local Boards. In the Department's view it is extremely important that each of the groups listed in section 117(b)(2) have an active role in the workforce investment system if the system is to be successful. Therefore, the Rule requires that the alternative entity be identified in the State Plan and the local workforce investment plan, and that these workforce investment plans explain the manner in which the Local Board will ensure the ongoing participation of any omitted membership groups in the local workforce investment area. While this Rule does not require that such groups be seated on the Board, it does require the State and local workforce investment plans to describe the means by which such groups will have periodic regular meaningful opportunities for input into decisions made by the Local Board.

Paragraph (c) of § 661.330 amplifies the requirement that an alternative entity must have been established by and in existence on December 31, 1997. Because of this requirement, modifications of the alternative entity are not allowed; any change to the membership structure will invalidate the entity's eligibility as an alternative entity. The membership structure is not considered to be changed when an existing member leaves the Local Board and a replacement member is appointed. However, it is considered to be changed when a change is made to the organizational structure of the Local Board that requires a change (whether the change is formally made or not) in the Local Board's charter or to a similar document that defines the organizational structure of the Local Board, such as appointing members of a category not previously represented. In that case, the entity is no longer eligible to perform the functions of the Local Board and a new entity, meeting all the requirements of section 117 of WIA must be created. This prevents piecemeal modification of alternative entities that would add certain WIA section 117(b)(2) membership categories, but not others.

5. *Youth Council:* Section 117(h) of WIA establishes youth councils as a subgroup of the Local Boards. Youth councils are an innovative new entity intended to broaden participation in the design and delivery of youth services at the local level. Section 661.335 describes the relationship of the youth council to the Local Board as well as the membership requirements and § 661.340 explains the responsibilities of the youth council, as described in section 117(h) of WIA.

6. *Local Workforce Investment Plan:* Sections 661.345 and 661.350 describe the requirements for the submission of the local workforce investment plan (Local Plan) and the contents of the Local Plan. Section 661.350 enumerates the Local Plan components outlined in WIA section 118(b). The Local Plan also must include information on the process for directing the One-Stop operators to give priority to low-income individuals and recipients of public assistance in the event that adult funds are limited, as required by WIA section 134(d)(4)(E). This priority is discussed in more detail under § 663.600.

Section 118 of WIA indicates that Local Plans cover a five year period. Some parties suggested that modifications to the local plan will likely be needed within the five year span. The Department concurs, and the regulations permit the Governor to require local plan modifications and, at § 661.355, offer a few examples of when such modifications might be required by the Governor. Section 661.355 states that the Governor must establish procedures for Local Plan modifications.

Subpart D—Waivers and Workflex

Subpart D indicates the elements of WIA and the Wagner-Peyser Act that may and may not be waived under either the General Waiver Authority or the Work Flex provision. The purpose of the general statutory and regulatory waiver authority provided by section 189(i)(4) and workforce flexibility waiver authority provided at section 192 is to give flexibility to States and local areas in the design and implementation of consolidated workforce development programs under WIA. The regulations specify that the Secretary does not intend to waive any of the key elements of the reform principles embodied in the Act (listed in the background section of this preamble and in § 661.400), except in extremely unusual circumstances. It also specifies that the provisions that incorporate the reform principles embodied in the Act may not be waived under the Work Flex authority.

Part 662—Description of the One-Stop System Under Title I of the Workforce Investment Act

Introduction

The establishment of a One-Stop delivery system for workforce development services is a cornerstone of the reforms contained in title I of WIA. This delivery system streamlines access to numerous workforce investment and educational and other human resource services, activities and programs. The Act's requirements build on reform efforts that are already underway in all States through the Department's One-Stop grant initiative. Rather than requiring individuals and employers to seek workforce development information and services at several different locations, which is often costly, discouraging and confusing, WIA requires States and communities to integrate multiple workforce development programs and resources for individuals at the ''street level'' through a user friendly One-Stop delivery system. This system will simplify and expand access to services for job seekers and employers.

The Act specifies nineteen required One-Stop partners and an additional five optional partners to streamline access to a range of employment and training services. WIA requires coordination among all Department of Labor funded programs as well as other workforce investment programs administered by the Departments of Education, Health and Human Services, and Housing and Urban Development. WIA also encourages participation in the One-Stop delivery system by other relevant programs, such as those administered by the Departments of Agriculture, Health and Human Services, and Transportation, as well as the Corporation for National and Community Service. In addition, local areas are authorized to add additional partners as local needs may require. All of these Federal Agencies will continue to work together to ensure effective communication and collaboration at the Federal level in support of One-Stop service delivery.

Subpart A—One-Stop Delivery System

1. *Structure:* Subpart A describes the structure of a One-Stop delivery system. The regulation, at § 662.100, describes the One-Stop system as a seamless system of service delivery that is created through the collaboration of entities responsible for separate workforce development funding streams. The One-Stop system is designed to enhance access to services and improve outcomes for individuals seeking

assistance. The regulation specifically defines the system as consisting of one or more comprehensive, physical One-Stop centers in a local area that provides the core services specified in WIA section 134(d)(2) and that provide access to the other activities and programs provided under WIA and by each One-Stop partner. In locating each comprehensive center, Local Boards should coordinate with the broader community, including transportation agencies, to ensure that the centers are accessible to their customers. In addition to the comprehensive centers, the regulation notes that WIA allows for three other arrangements to supplement the comprehensive center. These supplemental arrangements include: (1) A network of affiliated sites that provide one or more of the programs, services and activities of the partners; (2) a network of One-Stop partners through which the partners provide services linked to an affiliated site and through which all individuals are provided information on the availability of core services in the local area; and (3) specialized centers that address specific needs. In essence, this structure may be described as a ''one right door and no wrong door'' approach. One-Stop partners have an obligation to ensure that core services that are appropriate for their particular populations are made available at one comprehensive center. If an individual enters the system through one of the network sites rather than the comprehensive One-Stop center, the individual may still obtain certain services at the network site and information about how and where all the other services provided through the One-Stop system may be obtained.

Subpart B—One Stop Partners

1. *Responsibilities:* Subpart B identifies the One-Stop partners and their responsibilities in the One-Stop delivery system. The required partners are entities that carry out the workforce development programs. They are specifically identified in section 121(b)(1) of WIA and § 662.200. The regulation at § 662.200(a)(1)(i through vii) separately specifies the funding streams under title I that are included as required partners. The regulations also identify the other required programs, with some clarification of the particular sections of certain Acts (for example, the Vocational Rehabilitation Act and the Carl D. Perkins Act) that authorize the program that must participate. Section 662.210 identifies additional partners that may be a part of the One-Stop system at local option.

Entities—The regulation at § 662.220 provides a general definition of the ''entity'' that carries out the specified programs and serves as the partner. In light of the responsibilities of the partners, which are described below and include decisions regarding the use and administration of program resources, the regulation defines the entity as the grant recipient or other entity or organization responsible for administering the program's funds in the local area. The term ''entity'' does not include service providers that contract with or are subrecipients of the local entity. The regulation notes that for programs that do not have local administrative entities, the responsible State agency may be the One-Stop partner. In addition, the regulation specifies the appropriate entity to serve as partner for the Adult Education and Vocational Rehabilitation programs. Entities that serve as the partner under the Indian and Native American, Migrant and Seasonal Farmworker, Job Corps, and Youth programs are identified in the sections of the regulations applicable to those programs.

Partner Responsibilities—This subpart also describes and elaborates on the statutory responsibilities of the partners. The regulation at § 662.230 identifies the five provisions of the Act that describe these responsibilities. One of the key responsibilities of each partner is to make available at the comprehensive center through the One-Stop system appropriate core services that are applicable to the partner's program. The regulation at § 662.240 lists the core services that are described in section 134(d)(2) of WIA, and defines ''applicable'' to mean the services from that list that are authorized and provided under the partner programs. The extent to which core services are applicable to a partner program, as well as the manner in which services are provided, are determined by the program's authorizing statute.

Availability of Services—The regulation at § 662.250 describes where and to what extent the One-Stop partners must make available the applicable core services. Since section 134(c) of WIA requires that core services be provided, at a minimum, at one comprehensive physical center, the regulation requires that the applicable core services attributable to the partner's program be made available by each partner at that comprehensive center. To avoid duplication of services traditionally provided under the Wagner-Peyser Act, this requirement is limited to those applicable core services that are in addition to the basic labor exchange services traditionally provided in the local area under the Wagner-Peyser program. While a partner would not, for example, be required to duplicate an assessment provided under the Wagner-Peyser Act, the partner would be expected to be responsible for any needed assessment that includes additional elements specifically tailored to participants under the partner's program. However, the adult and dislocated worker program partners are required to make all of the core services available at the center.

Flexibility—The regulations also provide significant flexibility regarding how the core services are to be made available at the One-Stop center by allowing for services to be provided through appropriate technology at the center, through co-location of personnel, cross-training of staff, or through contractual or other arrangements between the partner and the service providers at the center.

2. *Proportional Responsibility:* The regulation also provides that the responsibility for the provision of and financing for applicable core services is to be proportionate to the use of services at the center by individuals attributable to the partners' programs. The regulation further provides that the individuals attributable to a partners' program may include individuals referred through the center and enrolled in the partner's program after the receipt of core services, individuals enrolled prior to the receipt of core services, individuals who meet the eligibility criteria for the partner's program and who receive an applicable core service, or individuals who meet an alternative definition described in the Memorandum of Understanding (MOU), described in subpart C. This ''proportionate responsibility'' provision is intended to provide an equitable principle for sharing responsibility among the partners. The regulation provides that the specific method for determining proportionate responsibility (for example, surveys) must be described in the MOU.

Additional Sites—The regulation provides that core services may be provided at sites in addition to the comprehensive center under the MOU. Therefore, it is not required that partners provide applicable core services exclusively at a One-Stop center. If an individual seeks core services at the One-Stop center rather than at the partner's site, they should be made available to him or her without referral to another location, but a partner is not required to route all of its participants through the comprehensive One-Stop center.

Access to Services—The regulation at § 662.260 provides that, in addition to the provision of core services, the One-

Stop partners must use the One-Stop system to provide access to the partners' other activities and programs. This access must be described in the MOU. This requirement is essential to ensuring a seamless, comprehensive workforce development system that identifies the service options available to individuals and takes the critical next step of facilitating access to these services.

3. *Cost Sharing:* The regulation at § 662.270 provides that the particular arrangements for funding the services provided through the One-Stop system and the operating costs of the One-Stop system must be described in the MOU. Each partner must contribute a fair share of the operating costs based on the use of the One-Stop delivery system by individuals attributable to the partner's program. This is an equitable principle and there are a number of methods that may be used for allocating costs among partners that are consistent with this principle and the OMB circulars. To promote efficiency and optimal performance, partner contributions for the administrative costs of the system may be re-evaluated annually through the memorandum of understanding process. The regulation identifies a number of methodologies, including cost pooling, indirect cost allocation, and activity based cost allocation plans, that may be used. The Department, in consultation with other affected Federal agencies, intends to issue guidance or technical assistance relating to cost allocation methods to assist in this area.

Allocation Process—The regulation at § 662.280 clarifies that the requirements of each partner's authorizing legislation continue to apply under the One-Stop system. Therefore, while the overall effect of linking One-Stop partners in the One-Stop system is to create universal access to core services, the resources of each partner may only be used to provide services that are authorized and provided under the partner's program to individuals who are eligible under the program.

As noted above, consistent with this principle, there are a variety of methods for allocating costs among programs. In sum, this regulation is intended to clarify that participation in the One-Stop delivery system is a requirement that is in addition to, rather than in lieu of, the other requirements applicable to the partner program under each authorizing law.

Subpart C—Memorandum of Understanding

Subpart C describes the operation of the local One-Stop system. Section 662.300 addresses the Memorandum of Understanding (MOU) that must be executed between the Local Board and the One-Stop partners. Section 662.310 states that the local areas may develop a single umbrella MOU covering all partners and the Local Board, or separate MOU's between partners and the Local Board. In many areas, the umbrella approach may be the preferred means to facilitate a comprehensive and equitable resolution of the operational issues relating to the One-Stop. The regulation also emphasizes that it is a legal obligation for the partners and the Local Board to engage in good faith negotiation and reach agreement on the MOU. The partners and the Local Boards may seek the assistance of the appropriate State agencies, the Governor, State Board or the appropriate parties in reaching agreement. The State agencies, the State Board, and the Governor may also consult with the appropriate Federal agencies to address impasse situations after exhausting other alternatives. If an impasse has not been resolved, parties that fail to execute an MOU may not be permitted to serve on the Local Board. In addition, if a Local Board has not executed an MOU with all required parties, the local area is not eligible for State incentive grants awarded for local coordination.

Subpart D—One-Stop Operator

This subpart addresses the role and selection of One-Stop operators. The operators are responsible for administering the One-Stop centers and their role may range from simply coordinating service providers in the center to being the primary provider of services at the center. The role is determined by the Local Board. In areas where there is more than one comprehensive One-Stop center, there may be separate operators for each center or one operator for multiple centers. The operator may be selected by the Local Board through a competitive process, or the Local Board may designate a consortium that includes three or more required One-Stop partners as an operator. The Local Board itself may serve as a One-Stop operator only with the consent of the chief elected official and the Governor. This subpart also addresses the ''grandfathering'' of existing One-Stop operators. The regulations provide some continuity for areas that have already established One-Stop systems while ensuring that fundamental features of the new One-Stop system are incorporated. A local area does not have to comply with the One-Stop operator selection procedures if the One-Stop delivery system, of which the operator is a part, existed before August 7, 1998 (the date of the WIA's enactment); if the One-Stop system includes all of the required One-Stop partners; and if an MOU is executed consistent with the requirements of the Act.

Part 663—Adult and Dislocated Worker Activities Under Title I of the Workforce Investment Act

Introduction

This part of the regulations describes requirements relating to the services that are available for adults and dislocated workers. Along with Wagner-Peyser labor exchange services, the required adult and dislocated worker services, described as core, intensive, and training services, form the backbone of the One-Stop delivery system. The WIA goal of universal access to core services is achieved through close integration of services provided by the Wagner-Peyser, WIA adult and dislocated worker partners and other partners in the One-Stop center and system. Intensive and training services are available to individuals who meet the eligibility requirements for the funding streams and who are determined to need these services to achieve employment, or in the case of employed individuals, to obtain or retain self-sufficient employment. Supportive services, to enable individuals to participate in these other activities, including needs-related payments for individuals in training, may also be provided.

These regulations also introduce the Individual Training Account (ITA), which is a key reform element of the Workforce Investment Act. Individuals are expected to take a proactive role in choosing the training services which meet their needs. They will be provided with quality information on providers of training and, armed with effective case management and an ITA as the payment mechanism, they will have the opportunity to choose the training provider that best meets their needs.

Subpart A—One-Stop System

1. *Role of the Adult and Dislocated Worker Program in the One-Stop System:* The regulation at § 663.100 provides that the One-Stop system is the basic delivery system for services to adults and dislocated workers. The concept of a single system that provides universal access to certain services to all individuals age 18 or older is a key tenet of the Workforce Investment Act. The regulation reflects the emphasis in WIA to consolidate and coordinate services. The grant recipient(s) for the adult and dislocated worker program is a required partner and is subject to § 662.210

regarding required partner responsibilities. Access to services through the One-Stop system ensures that individual needs are identified and, to the extent possible, met. The consolidation of and access to services will result in improved services for both adults and dislocated workers.

2. *Registration and Eligibility:* Sections 663.105 through 663.120 address registration and basic eligibility requirements. In response to concerns regarding the timing of eligibility determination for services in a One-Stop system, the Department has provided general guidance in the regulation at § 663.105 on when adults and dislocated workers must be registered. Sections 663.110 and 663.120 contain the basic eligibility criteria for adults and dislocated workers, respectively.

Individuals who are primarily seeking information and do not seek direct, one-on-one staff assistance, do not need to be registered. However, when an individual seeks more than minimal assistance from staff in taking the next steps toward self-sufficient employment, then eligibility must be determined. Registration is the point at which information that is used in performance measurement begins to be collected. In addition, equal employment opportunity data must be collected on individuals when any assessment or discretionary decision regarding a specific individual is made. Such assessments or decisions include: Decisions regarding service or program eligibility, either positive or negative; and decisions made on the part of any workforce investment system employee which lead to a targeting of services for the individual. The Department will issue further guidance regarding this data collection. Additional information needed to determine eligibility for other assistance available at the One-Stop site may also be determined at the same time. Program operators should determine the information that they need for cost allocation purposes and when they can most efficiently collect it. Electronic records systems allow information to be collected incrementally as higher levels of assistance are provided.

3. *Displaced Homemaker Eligibility:* In response to inquiries regarding assistance to displaced homemakers, the regulation at § 663.120 clarifies that a displaced homemaker who has been dependent on the income of another family member but is no longer supported by that income, is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment, may receive assistance with funds available to Local Boards for services to dislocated workers.

4. *Title I Funds:* Section 663.145 clarifies how title I adult and dislocated worker funds are used to contribute to the provision of core services, and to provide intensive and training services through the One-Stop delivery system. All three types of services must be provided, but the Local Boards determine the mix of the three services.

5. *Sequence of Services:* WIA provides for three levels of services: Core, intensive, and training, with service at one level being a prerequisite to moving to the next level. There was a great deal of concern expressed about how this tiered approach would be implemented. Many were particularly concerned that the Department might require a ''failed'' job search or a minimum time period in one level of service before moving on to the next level. The regulations establish the concept of a tiered approach but allow significant flexibility at the local level. The Department, in response to the comments received, did not establish a minimum number of ''failed'' job applications or a minimum time period but, instead, allows localities to establish gateway activities that lead from participation in core to intensive and training services. Any core service, such as an initial assessment or job search and placement assistance, could be the gateway activity. In intensive services, the gateway activity could be the development of an individual employment plan, individual counseling and career planning or another intensive service. Key to these gateway activities is the determination, made at the local level, that intensive or training services are required for the participant to achieve the goal of obtaining or retaining self-sufficient employment. The three levels of services are discussed separately in the regulations.

6. *Core Services:* The regulations at §§ 663.150 to 663.165 discuss the core services. All of the core services that are listed in the Act must be made available in each local area through the One-Stop system. Followup services must be available for a minimum of 12 months after employment begins, to registered participants who are placed in unsubsidized employment. Among the core services available is information on targeted assistance available through the One-Stop system for specific groups of workers, such as Migrant and Seasonal Farm Workers, and veterans.

Core services also include assistance in establishing eligibility for the Welfare-to-Work program and programs of financial aid for training and education programs. The specific form of this assistance is determined at the local level based on the participant's needs and in coordination with the other partner programs. This assistance may include: referrals to specific agencies; information relating to, or provision of, required applications or other forms; or specific on-site assistance.

Another core service is the provision of information relating to the availability of supportive services, including child care and transportation, available in the local area, and referral to such services as appropriate. The Department encourages Local Boards to establish strong linkages with a variety of supportive service programs, including Food Stamps, Medicaid programs, and CHIP. Such programs provide key supports for low-income working families and families making the transition from welfare to self-sufficiency.

The Department also encourages Local Boards to establish strong linkages to child support agencies and organizations serving fathers. WIA services can help raise the employment and earnings of non-custodial fathers and fathers living with their children so that they can better support their children. Child support payments help low income single parents stabilize and raise their income. At the same time, it is important for One-Stop programs to be aware of the child support requirements on non-custodial parents who may receive services.

Subpart B—Intensive Services

1. *Intensive Services for Adults and Dislocated Workers:* The regulation at § 663.200 discusses intensive services. The regulation provides that intensive services beyond those listed in the Act may also be provided. Out-of-area job search expenses, relocation expenses, internships, and work experience are specifically mentioned to clarify that they are among the additional intensive services that may be provided. Intensive services are intended to identify obstacles to employment through a comprehensive assessment or individual employment plan in order to determine specific services needed, such as counseling and career planning, referrals to community services, and, if appropriate, referrals to training.

2. *Participation in Intensive Services:* Section 663.220 explains that intensive services are provided to unemployed adults and dislocated workers who are unable to obtain employment through core services and require these services to obtain or retain employment, and employed workers who need services to obtain or retain employment that leads

to self-sufficiency. The regulations at §§ 663.240 through 663.250 specify that an individual must receive at least one intensive service, such as the development of an individual employment plan with a case manager or individual counseling and career planning, before the individual may receive training services and that there is no Federally required minimum time for participation in intensive services. Each person in intensive services should have a case management file, either hard copy, electronic or both. Section 663.240 explains that the case file must contain a determination of need for training services, as identified through the intensive service received.

3. *Self-sufficiency:* This regulation, at § 663.230, discusses how ''self-sufficiency'' should be determined. WIA requires a determination that employed adults and dislocated workers need intensive or training services to obtain or retain employment that allows for self-sufficiency as a condition for providing those services. Recognizing that there are different local conditions that should be considered in this determination, the regulation provides maximum flexibility, requiring only that self-sufficiency mean employment that pays at least the lower living standard income level. State Boards or Local Boards must set the criteria for determining whether employment leads to self-sufficiency. Such factors as family size and local economic conditions may be included in the criteria. It may often occur that dislocated workers require a wage higher than the lower living standard income level to maintain self-sufficiency. Therefore, the Rule allows self-sufficiency for a dislocated worker to be defined in relation to a percentage of the lay-off wage.

Subpart C—Training Services

1. *Training Services:* Training services are discussed at §§ 663.300 and 663.320. Training services are designed to equip individuals to enter the workforce and retain employment. Under JTPA, a dislocated worker participating in training under title III of JTPA is deemed to be in training with the approval of the State Unemployment Compensation Agency. With such approval, unemployment compensation cannot be denied to the individual solely on the basis that the individual is not available for work because he or she is in training. Although there is no comparable provision in WIA, this JTPA provision will remain in effect during the transition period under the Secretary's authority to guide that transition from JTPA to WIA. The Department will seek an amendment adding similar language to WIA which would deem all adults participating in training under title I of WIA to be in approved training for the purposes of unemployment compensation qualification.

2. *Determining the Need for Training:* The regulations at § 663.310 provide that the One-Stop operator or partner determines the need for training based on an individual (1) meeting the eligibility requirements for intensive services; (2) being unable to obtain or retain employment through such services; and (3) being determined after an interview, evaluation or assessment to be in need of training. Section 663.310 requires that, to receive training, an individual must select a program of services directly linked to occupations in demand in the area, based on information provided by the One-Stop operator or partner. If individuals are willing to relocate, they may receive training in occupations in demand in another area.

3. *Requirements When Other Grant Assistance is Available to Participants.* Section 663.320 implements the requirements of WIA section 134(d)(4)(B), which limits the use of WIA funds for training services to instances when there is no or inadequate grant assistance from other sources available to pay for those costs. The statute specifically requires that funds not be used to pay for the costs of training when Pell Grant funds or grant assistance from other sources are available to pay the costs. This section is intended to give effect to this WIA requirement and still give effect to title IV of the Higher Education Act (HEA) as amended (20 U.S.C. 1087uu), which prohibits taking into account either a Pell Grant or other Federal student financial assistance when determining an individual's eligibility for, or the amount of, any other Federal funding assistance program.

Section 134(d)(4)(B) of WIA requires the coordination of training costs with funds available under other Federal programs. To avoid duplicate payment of costs when an individual is eligible for both WIA and other assistance, including a Pell Grant, § 663.320(b) requires that program operators and training providers coordinate by entering into arrangements with the entities administering the alternate sources of funds, including eligible providers administering Pell Grants. These entities should consider all available sources of funds, excluding loans, in determining an individual's overall need for WIA funds. The exact mix of funds should be determined based on the availability of funding for either training costs or supportive services, with the goal of ensuring that the costs of the training program the participant selects are fully paid and that necessary supportive services are available so that the training can be completed successfully. This determination should focus on the needs of the participant; simply reducing the amount of WIA funds by the amount of Pell Grant funds is not permitted. Participation in a training program funded under WIA may not be conditioned on applying for or using a loan to help finance training costs.

With such coordination and arrangements, the WIA counselor is likely to know the amount of WIA funds available to the WIA participant when calculating the amount of financial assistance needed for the participant to complete the training program successfully. The WIA counselor needs to work with the WIA participant to calculate the total funding resources available as well as to assess the full ''education and education related costs'' (training and supportive services costs) incurred if the participant is to complete the chosen program. This also ensures both that duplicate payments of training costs are not made and that the amount of WIA funded training is not reduced by the amount of Federal student financial assistance in violation of 20 U.S.C. 1087uu.

It is important to note that the Pell Grant is not school-based; rather, it is a portable grant for which preliminary eligibility can, and should, be determined before the participant enrolls in a particular school or training program. The application for determining eligibility and ultimately the amount of the grant, should be readily available at all One-Stop centers for assistance in the completion of these ''gateway'' financial aid applications.

Section 663.320(c) implements the requirements of WIA section 134(d)(4)(B)(ii). This section permits a WIA participant to enroll in a training program with WIA funds while an application for Pell Grant funds is pending, but requires that the local workforce investment area be reimbursed for the amount of the Pell Grant used for training if the application is approved. Since Pell Grants are intended to provide for both tuition and other education-related costs, the Rule also clarifies that only the portion provided for tuition is subject to reimbursement.

In the limited cases where contracts are used rather than ITA's, the contracts negotiated by the One-Stop center must prohibit training institutions or

organizations from holding the student liable for outstanding charges. Otherwise, the performance agreements would be undercut because the incentive for the institution or organization to perform would be removed. Also, the practice of withholding Pell Grants from students is prohibited by the U.S. Department of Education.

Subpart D—Individual Training Accounts

1. *Definition of an Individual Training Account:* Information regarding Individual Training Accounts (ITA) is contained in §§ 663.400 through 663.430. A key reform tenet of the Workforce Investment Act is that adults and dislocated workers who have been determined to need training, may access training with an Individual Training Account. The regulation at § 663.410 provides a definition for an ITA that seeks to provide maximum flexibility to State and local program operators in managing ITA's. These regulations do not establish the procedures for making payments, restrictions on the duration or amounts of the ITA, or policies regarding exceptions to the limits, but provide that authority to the State or Local Boards. However, this authority to restrict the duration of ITA's or restrict funding amounts should not be used to establish limits that arbitrarily exclude eligible providers.

2. *Exceptions to ITA's:* The Act at section 134(d)(4)(G)(ii) and § 663.430 of the regulations provide that, under certain limited circumstances, contracts for training rather than ITA's may be used. Specifically, on-the-job training contracts with employers and customized training contracts are authorized. Contracts may also be used when there is an insufficient number of eligible providers in a local area. This exception applies primarily to rural areas. The exceptions to ITA's are to be used infrequently. The Act reforms the local service delivery system by eliminating the current practice of assigning participants to contracted training services and instead establishing a system that maximizes customer choice in the selection of training providers. When the Local Board determines there are an insufficient number of eligible providers in the local area to accomplish the purposes of a system of ITA's, and intends to use contracts for services, there must be at least a 30 day public comment period for interested providers.

Contracts for Special Populations—Contracts for training are also authorized when the Local Board determines that there are special populations that face multiple barriers to employment, as identified in § 663.430(b), and that there is a training services program of demonstrated effectiveness offered by an eligible provider. Section 663.430(a)(3) explains that an eligible provider in this case is a community based organization (CBO) or other private organization. The Department has received many suggestions about this exception and the extent to which it may be used. This exception is intended to meet special needs and should be used infrequently. Those training providers operating under the ITA exceptions still must qualify as eligible providers, as required at § 663.505. The Department believes that effective eligible training providers, including CBO's and other training providers, can and will compete for individual training accounts and, that providers should view the use of ITA's as an opportunity to expand their customer base.

Criteria for ''Demonstrated Effectiveness''—The regulation at § 663.430(a)(3) provides that when the exception for special populations is used, the Local Board must apply criteria it develops to determine ''demonstrated effectiveness,'' particularly as it applies to the special participant population it proposes to serve. This determination is in addition to meeting the requirements for qualifying as an eligible training provider. The provisions in the regulation are illustrative and Local Boards should develop specific criteria applicable to their local areas.

Subpart E—Eligible Training Providers

1. Subpart E describes the methods by which organizations qualify as eligible providers of training services under WIA. It also describes the roles and responsibilities of Local Boards and the State in managing this process. Although no single entity has full responsibility for the entire process, the State must play a leadership role in ensuring the success of the eligible provider system. The Governor establishes minimum performance levels for initial determination of non-Higher Education Act/registered apprenticeship providers and for all subsequent eligibility determinations. The Local Board may establish additional local performance levels for subsequent eligibility determinations. The eligible provider process requires a collaborative effort among the State, Local Boards, and other partners. The regulations attempt to amplify and clarify the intent of the Act, by linking statutory language on eligible providers in WIA section 122 with section 134 provisions covering Individual Training Accounts. In § 663.505, the regulations clarify that all training providers, including those operating under the ITA exceptions, must qualify as eligible providers, except for those engaged in on-the-job and customized training (for which the Governor should establish qualifying procedures as discussed in § 663.595). Finally, in order to ensure the strong relationship between the eligible provider process and program performance, the regulation at § 663.530 establishes a maximum eighteen month period for an organization's initial determination as an eligible provider.

The Department heard concern that some traditional providers of training under previous workforce programs, such as community-based organizations, would face difficulties in participating in this system. The regulations clarify that such organizations have the opportunity to deliver training funded under WIA, provided they deliver services that customers value and meet training performance requirements. It is important that States provide access to these organizations in order to maximize customer choice. States should provide access to a broad and diverse set of providers, including CBO's, while maintaining the quality and integrity of training services.

Subpart F—Priority and Special Populations

1. *Priority Under Limited Adult Funding:* This subpart contains requirements related to the statutorily-required priority for the use of adult funds when funds are limited. WIA section 134(d)(4)(E) states that in the event that funds allocated to a local area for adult employment and training activities are limited, priority shall be given to recipients of public assistance and other low-income individuals for intensive services and training services. The appropriate Local Board and the Governor must direct the One-Stop operators in the local area with regard to making determinations related to such priority. The Department assumes that adult funding is generally limited because there are not enough adult funds available to provide services to all of the adults who could benefit from such services. However, the Department also recognizes that conditions are different from one area to another and funds might not be limited in all areas. Because of this, the regulation requires that all Local Boards must consider the availability of funds in their area. In making this determination, the availability of other Federal funding, such as TANF and Welfare-to-Work

funds, should be taken into consideration. Unless the Local Board determines that funds are not limited in the local area, the priority requirement will be in effect. States and Local Boards must work together to establish the criteria that must be used in making this determination. States and Local Boards also may administer their priority for adult recipients of public assistance and other low income adults so as not to preclude providing intensive and training services to other individuals.

A substantial number of parties expressed views on the priority issue. Many believed that the Department should not write any regulations that would, in effect, establish a nationwide priority. Some believed that the Department should not write any regulations at all on this section of the statute. However, the Department believes that the interpretation of this requirement is of such importance that there must be regulations. This section reiterates the statutory language that provides States and Local Boards with the authority to determine the criteria to be applied when making the determination that there are sufficient funds available so that the priority is not in effect. Section 663.610 clarifies that the statutory priority only applies to adult funds for intensive and training services, and not to dislocated worker funds.

2. *Welfare-to-Work and Temporary Assistance to Needy Families as Part of One-Stop:* At § 663.620, the regulation discusses the relationship of the Welfare-to-Work program and the Temporary Assistance to Needy Families (TANF) program to the One-Stop delivery system. Welfare-to-Work is a required partner to which the One-Stop partner regulations apply. The TANF agency is specifically suggested as an additional partner. Both programs can benefit from close cooperation with the One-Stop delivery system because their respective participants will have access to a much broader range of services to promote employment retention and self-sufficiency.

Subpart G—On-the-Job Training and Customized Training

1. Sections 663.700 through 663.720 are the regulatory provisions for conducting on-the-job (OJT) and customized training activities. They include specific information regarding general, contract, and employer payment requirements. The Department received input advocating OJT regulations which do not restrict the duration of OJT and which permit eligible employed workers to also receive this training. Unlike JTPA, OJT is not limited to six months. However, as specified in WIA section 101(31)(C), it is limited in duration as appropriate for the occupation being trained for. Section 663.705 establishes requirements that permit OJT contracts for employed workers.

Some parties called for minimal regulations in this area; however, there were a few who suggested the need for information regarding documentation requirements to avoid audit exceptions. Section 663.710 provides that employers are not required to document the extraordinary costs associated with providing OJT, and no further documentation requirements are established. Instead, program operators should put emphasis on the development and/or selection of OJT assignments that meet the identified needs of the participants.

Subpart H—Supportive Services

1. *Flexibility in the Provision of Supportive Services:* The regulations in subpart H define the scope and purpose of supportive services and the requirements governing their disbursement. A fundamental principle of WIA is to provide local areas with the authority to make policy and administrative decisions as well as the flexibility to tailor the workforce investment system to meet the needs of the local community. To ensure this flexibility, the regulations afford local areas the discretion to provide supportive services as they deem appropriate with limitations only in the areas defined in the Act. Local Boards are required to develop policies and procedures addressing coordination with other entities to ensure non-duplication of resources and services, as well as any limits on the amount and duration of such services. Attention should be given to developing policies and procedures that ensure that the supportive services provided are not available through other agencies and that they are necessary for the individual to participate in title I activities.

2. *Needs-Related Payments:* There were a number of issues regarding the eligibility requirements for dislocated workers to receive needs-related payments that came to our attention, including the concern that training enrollment requirements restrict the numbers of individuals eligible to receive this income support which they need to participate in training. Studies show that early entry into training for dislocated workers who require it is a key factor in reducing the period of unemployment during the adjustment process. Early intervention strategies and policies are best implemented through quality rapid response assistance which includes comprehensive core services, and the provision of other reemployment assistance, including intensive and training services, as soon as the need can be identified, preferably before layoff. The statute authorizes all levels of assistance under title I of WIA to many workers six months (180 days) before layoff, or at least as soon as a layoff notice is received. Providing these workers with access to quality information regarding all adjustment assistance available in the community, including any deadlines that must be met, is critical for workers to make intelligent reemployment choices. Thus, many of the concerns raised can be resolved through the use of early intervention strategies. The Department has decided to issue only limited regulations on needs-related payments eligibility at § 663.815 through § 663.840.

Part 664—Youth Activities Under Title I

Introduction

The youth regulations attempt to reflect the intent of the legislation by moving away from one-time, short-term interventions and moving to a systematic approach that offers youth a broad range of coordinated services. Such offerings include opportunities for assistance in both academic and occupational learning; developing leadership skills; and preparing for further education, additional training, and eventual employment. Rather than supporting separate, categorical programs, the youth regulations are written to facilitate the provision of a menu of varied services that may be provided in combination or alone at different times during a youth's development.

Legislation creating the youth council, the local entity responsible for recommending and coordinating youth policies and programs, intends that the youth council be a catalyst for such broad change. The regulations support that legislative intent.

Flexibility for local program operators in conducting youth programs is key to the legislation and these regulations. The Department encourages local decision making in terms of policy, youth program design within the statutory framework, and determining appropriate program offerings for each individual youth. It is the Department's expectation that these offerings will provide needed guidance for youth that is balanced with appropriate

consideration of each youth's involvement in his or her training and educational plan. Further, the regulations support strong connections between youth program activities and the One-Stop service delivery system, so that youth learn early in their development how to access the services of the One-Stop system and continue to use those services throughout their working lives.

Subpart A—Youth Councils

1. This subpart explains the purpose of youth councils. The youth council is a new feature of the workforce investment system that helps develop youth employment and training policy, brings a youth development perspective to the establishment of such policy, establishes linkages with other local youth services organizations, and takes into account a range of issues that can have an impact on the success of youth in the labor market. Working with the youth council, the Local Board has responsibility for oversight of youth programs. It may be advantageous for Local Boards to delegate responsibility for oversight of youth programs to youth councils which have expertise in youth issues, as is permitted by § 664.110.

Subpart B—Eligibility for Youth Services

1. Definition of Sixth Eligibility Barrier: Under section 101(13)(C)(vi) of the Act, a low income youth is eligible for services if he or she ''requires additional assistance to complete an educational program, or to secure and hold employment.'' The regulation at § 664.210 envisions that Local Boards will define this term, however, if State policy is set regarding this provision, the policy must be described in the State Plan.

2. Registering Youth Participants: Section 664.215 provides that all youth participants be registered by collecting information for supporting eligibility determinations, as well as EEO data. The EEO data must be collected on individuals when any assessment or discretionary decision regarding an individual is made. Such assessments include decisions regarding service or program eligibility, either positive or negative, and decisions made on the part of any workforce investment system employee which lead to a targeting of services for the individual. The Department will issue further guidance regarding this data collection requirement.

3. Non-Income Eligible Youth: Section 129(c)(5) of the Act provides that up to five percent of youth participants served in a local area may be individuals who do not meet income criteria for eligible youth, provided that they meet one or more of the criteria specified in section 129(c)(5) of the Act and the regulations at § 664.220. Local Boards may define the term ''serious barriers to employment'' and describe it in the Local Plan.

4. Eligibility under the National School Lunch Program: Eligibility for free school lunches is not a substitute for income eligibility under the Act. The Department received suggestions that program operators be allowed to use eligibility for free lunch as a substitute for determining eligibility under the Act, and encouraging the Department to seek a technical amendment that would include such a provision in the legislation. The Department recognizes the importance of this issue, yet lacks statutory authority to change the Act's income eligibility requirements.

5. Eligibility of Youth with Disabilities: Section 664.250 provides that a disabled individual whose family income exceeds maximum income levels under the Act may qualify for services if the individual's own income meets the income criteria established in WIA section 101(25)(F), or the eligibility criteria for cash payments under any Federal, State or Local public assistance program. (WIA section 101(25)(B).)

Subpart C—Out of School Youth

1. Defining Out-of-School Youth: Sections 664.300, 664.310, and 664.320 address issues related to out-of-school youth. Section 101(33) of the Act defines ''out-of-school youth'' as: eligible youth who are school dropouts or who have received a secondary school diploma or its equivalent, but are basic skills deficient, unemployed, or underemployed. Youth enrolled in alternative schools are not school dropouts. The Department received a number of requests that it seek a technical amendment that would allow youth attending alternative schools to be included in the definition of ''dropout,'' noting that this would permit Local Boards to provide services to more youth in alternative educational environments and to design programs that take advantage of local resources and best meet the needs of local youth. While recognizing the importance of local flexibility and of serving youth in alternative school settings, the Department lacks statutory authority to change definitions established under the Act. Section 664.310 of the regulations clarifies this issue.

2. Funds for Summer Activities for Out-of-School Youth: The Department received a number of inquiries asking if summer activities are exempt from the requirement that 30 percent of youth funds be spent on services for out-of-school youth. Transition guidance will address how the 30% requirement applies to the Program Year 1999 JTPA summer funds. Section 664.320 clarifies that there is no exemption from this requirement for summer activities. There is no separate summer program under the Act. A single allocation of youth funds is available to local areas for year-round and summer activities. Thirty percent of the total youth allocation must be spent on services for out-of-school youth. This 30 percent, like the remaining 70 percent, may or may not be proportional between summer and year-round activities, as determined by the Local Board in consultation with the chief elected official.

Subpart D—Youth Program Design, Elements, and Parameters

1. Program Design: Features of the youth program design are outlined in section 129(c) of the Act. While there are three program design categories and ten program elements are required, there is individual program design flexibility and flexibility in determining the definition, scope, and characteristics of the elements.

Program Design Categories—Under section 129(c)(1), three categories provide the framework for youth program design. They are: (1) An objective assessment of each participant; (2) individual service strategies; and (3) services that prepare youth for postsecondary educational opportunities, link academic and occupational learning, prepare youth for employment, and provide connections to intermediary organizations linked to the job market and employers.

Linkages to Entities—Youth councils and programs are required to establish linkages to entities that will foster the participation of eligible youth. Suggested linkages are included in § 664.400(c).

Information and Referrals—Section 129(c)(3) of the Act requires that Local Boards ensure that eligible youth receive information and referrals, including information on the full array of appropriate services available to them and referrals to appropriate training and educational programs. Youth program providers must ensure that eligible applicants who do not meet the enrollment requirements of their program or who cannot be served by their program are referred for additional assessment and program placement. This language was included in § 664.400(d) of the regulations to emphasize the importance of referrals as

a part of overall youth program design. To further promote the concept of seamless One-Stop service delivery, One-Stop operators are encouraged to send those youth assessments that are completed at the One-Stop center to other training and educational programs to which the youth is referred.

2. Program elements: Section 129(c)(2) of the Act lists 10 program elements that must be generally available to youth through local programs. The Department received requests for clarification that not all of the 10 youth program elements must be provided to every youth participant, and this interpretation is included in § 664.410(b). Local program operators must determine what program elements will be provided to each youth participant based on the participant's objective assessment and service strategy; however, it is envisioned that each youth will participate in more than one of the ten program elements required as part of any local youth program, and all youth must receive follow-up services. For example, even if it is determined appropriate that a youth participate in only summer employment activities, he or she would still receive at least 12 months of followup services. Followup service requirements are fully described in § 664.450. Sections 664.420 through 664.470 further define and discuss five program elements: leadership development, positive social behaviors, supportive services, followup services, and work experiences.

Leadership Development—The Act states that youth programs must provide leadership development opportunities, and gives the following examples of such activities: community service and peer-centered activities encouraging responsibility and other positive social behaviors during non-school hours. Some additional examples of leadership development activities are outlined in § 664.420 which elaborates on the definition of leadership development opportunities. The development of leadership abilities might address team work, decision making, personal responsibility, and citizenship training, as well positive social behavior training in areas such as positive attitudinal development, self esteem building, issues of cultural diversity, and other skills and attributes that would help youth to lead effectively, responsibly, and by example.

Supportive Services—The Act states that youth programs must provide supportive services. Section 101(46) of the Act defines supportive services to include services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to participate in activities authorized under the Act. Section 664.440 elaborates on the definition of supportive services as it applies to youth. Such services may include: linkages to community services; referrals to medical services; and assistance with work attire and work-related tool costs, including such items as eye glasses and protective eye gear.

Followup Services—The Act states that followup services will be provided for not less than 12 months after the completion of participation, as appropriate. Section 664.450(b) clarifies that all youth participants must receive some form of followup services. Such services must be for a minimum of 12 months. Followup services for youth who participate in only summer employment activities may, however, be less intensive than for those youth who participate in other types of activities. Program operators are encouraged to consider the intensity of the services provided and the needs of the individual youth in determining the appropriate level of followup services. This section also provides that followup may include leadership development or supportive service activities, as well as other allowable activities, and provides additional examples of permissible followup services.

Evaluation studies such as Abt Associates' Final Report on the National JTPA Study, have shown disappointing results for short-term job training programs for youth. Meanwhile, programs such as STRIVE and the Children's Village have shown much success with longer-term followup strategies. A 1993 study by MDRC showed that the Center for Employment Training, which features close ties to the private sector and a strong job placement component with followup with employers, increased the earnings of enrollees by $3,000 a year over a control group during the last two years of a four-year evaluation.

Work Experiences—Sections 664.460 and 664.470 address work experiences for youth. Work experiences are planned, structured learning experiences that take place in a workplace for a limited period of time. No specific time period is specified. As provided in section 129(c)(2)(D) of the Act, work experiences may be paid or unpaid, as appropriate. Section 664.460 states that work experiences may be in the private for-profit sector, the nonprofit sector, or the public sector, and gives examples of the types of activities that work experiences may include, such as On-the-Job Training (OJT). While OJT is likely not an appropriate activity for most youth under age 18, it may be used as a service strategy for such youth based on the needs identified in an objective assessment of an individual youth participant. Section 664.470 provides that youth funds may be used to pay the wages of youth in work experience. Youth funds may be used to pay the wages of youth in work experiences, including in the private, for-profit sector, under conditions designed to protect youth and incumbent workers when the purpose of the work experiences is to provide youth with opportunities for career exploration and skill development and not to benefit the employer. If an unpaid work experience creates an employer/employee relationship, federal wage standards may apply. This relationship is determined under the Fair Labor Standards Act.

Subpart E—Concurrent Enrollment

1. *Concurrent Enrollment in Youth and Adult Programs:* Under the Act, an eligible youth is an individual 14 through 21 years of age. Adults are defined in the Act as individuals age 18 and older. The Department received suggestions that local program operators be allowed to decide whether youth or adult services are appropriate for individuals aged 18 through 21 based on individual participant assessments and service strategies. The Department encourages local flexibility in serving both youth and adult participants, and thus included this clarification in the regulations. Section 664.500(b) clarifies that eligible youth who are 18 through 21 years old may participate in youth and adult programs concurrently, as appropriate for the individual. Such individuals must meet the eligibility requirements under the applicable youth or adult criteria for the services received. Local program operators must identify and track the funding streams for services provided to individuals who participate in youth and adult programs concurrently, ensuring non-duplication of services.

2. *Individual Training Accounts for Youth:* Section 664.510 states that ITA's are not an authorized use of youth funds. The ITA is the currency of a market-based system that enables adults to select the service providers most suited to their needs based on information about the past performance of such providers. Under the Act, ITA's are not authorized for youth below age 18. Providers of youth services are competitively selected based on predetermined criteria, the judgment of Local Boards, and recommendations of youth councils about the providers' ability to meet the needs of youth

participants. Youth aged 18 through 21 can access ITA's under the adult or dislocated worker program, if appropriate.

Subpart F—Summer Employment Opportunities

1. *Summer Employment Activities:* This subpart provides clarification about summer youth employment. Although all Local Boards must offer summer employment opportunities for eligible youth as one of the ten required program elements listed in WIA section 129(c)(2) and § 664.410, the proportion of youth funds used for summer employment is determined by the Local Board in consultation with the chief elected official. Section 664.600 elaborates on the activities that must be included in all summer employment opportunities, including direct linkages to academic and occupational learning, as well as followup services for at least 12 months. Numerous inquiries were received about whether the Act would allow cities and counties to continue to operate their summer activities. Section 664.610 provides that this practice is still allowed, and clarifies that if summer employment opportunities are provided by entities other than the grant recipient/fiscal agent, the providers must be selected by awarding a grant or contract on a competitive basis based on recommendations of the youth council and on criteria contained in the State plan.

2. *Application of Performance Indicators:* In terms of performance measurement, the Department received requests for clarification on whether all of the core indicators listed in the Act apply to the summer program element as well as to youth activities that are longer in duration. It is important to note that the core indicators specified in section 136 of the Act apply to all youth program activities. This is consistent with the intent of the Act to move from a focus on separate, categorical programs to a more systematic approach to workforce investment and serving the needs of youth. Summer employment opportunities then, are to be viewed as one element among many available to youth as a part of a menu of activities offered by the Local Board. Section 664.620 indicates that summer activities, as part of the overall youth program, are required to meet the same core indicators of performance as the other youth activities.

Subpart G—One-Stop Career Center Services to Youth

1. *The Connection between the Title I Youth Program and the One-Stop Delivery System:* This subpart explains that the chief elected official (as the local grant recipient for the youth program), as a required One-Stop partner, is subject to the One-Stop provisions related to such partners described in part 662 of the regulations and is responsible for connecting the youth program and its activities to the One-Stop system. In addition to the provisions of part 662, connections between the youth program and the One-Stop system may include those that facilitate:

- The coordination of youth activities;
- Connections to the job market and employers;
- Access for eligible youth to information and services; and
- Other activities designed to achieve the purposes of the youth program.

The Department received requests for clarification on connecting youth program activities to the One-Stop delivery system; however, some parties felt that the youth program, as a One-Stop partner, should not be made to conform to the same One-Stop partner requirements as other partners. The Rule attempts to clarify the role of the youth program in the One-Stop center through a cross-reference to the One-Stop regulations found in 20 CFR, part 662.

2. *Universal Access to One-Stop Centers for Youth under 18:* Under section 134(d)(2) of the Act, adults have access to core services in One-Stop centers without regard to eligibility. Adults are defined under the Act as persons aged 18 and above. Section 664.710 of the regulations clarifies that local area youth, including youth under age 18 who are not eligible under the title I youth program, may receive services through the One-Stop centers; however, services for such youth must be funded from sources that do not restrict eligibility for services, such as Wagner-Peyser. The Department believes that the intent of the Act is to introduce youth, particularly out-of-school youth, to the services of the One-Stop system early in their development and to encourage the use of the One-Stop system as an entry point to obtaining education, training, and job search services.

Subpart H—Youth Opportunity Grant Programs

This subpart explains that competitive procedures for awarding Youth Opportunity Grants will be established by the Secretary. It also restates statutory language regarding the eligibility of Local Boards and other entities in high poverty areas to apply for Youth Opportunity Grants. Provisions of the Act regarding eligibility for services under Youth Opportunity Grants and the process for establishing performance measures are clarified at §§ 664.800 to 664.830. The Department views these grants as a distinct opportunity to provide a variety of needed services to youth in high poverty areas, building on the current successful activities and innovations already at work in many communities.

Part 665—Statewide Activities Under Title I of the Workforce Investment Act

Introduction

This part addresses the funds reserved at the State level for workforce investment activities under sections 128(a) and 133(2) of WIA.

Subpart A—General Description

This subpart provides a general description of Statewide activities conducted with up to 15 percent reserved from youth, adult and dislocated worker funding streams (''15 percent funds''), and up to an additional 25 percent of dislocated worker funds reserved for Statewide activities from annual allotments to the State.

1. Section 665.110(b) explains that the 15 percent reserved funds may be pooled and expended on workforce investment activities without regard to the source of the funding. For example, funds reserved from the adult funding stream may be used to carry out Statewide youth activities and vice versa. The Department believes that the use of these funds can provide critical leadership in the development and continuous improvement of a comprehensive workforce investment system for each State and, as a result, create a national system to which job seekers and workers can look for expert assistance, and employers can look for a qualified workforce.

Subpart B—Required and Allowable Statewide Workforce Investment Activities

This subpart discusses required and optional activities conducted with funds reserved from the three title I funding streams (youth, adults, and dislocated workers).

1. *Required Activities:* Section 665.200 identifies the eight activities which each State is required to carry out with its reserved funds from the three funding streams. The Governor must reserve funding for these activities, but has discretion to determine the amount reserved, up to the maximum 15 percent of each funding stream. One use of these funds is administration, subject to the five percent administrative cost

limitation at 20 CFR 667.210(a)(1). This section clarifies that while there is no specific amount for each of the seven of the eight required activities to be carried out with the 15 percent funds, it is expected that the State will expend a sufficient amount to ensure effective implementation of those activities. The eighth required activity, rapid response, is discussed in subpart C.

2. *Optional Activities:* Section 665.210 also identifies activities which each State is allowed to carry out with the 15 percent funds. For the first time, States have the discretion to conduct research and demonstration projects, and incumbent worker projects, including the establishment and implementation of an employer loan program. Section 665.220 makes clear that employed (incumbent) workers served under projects funded with these reserve funds are not required to meet the requirements that training is needed to lead to a self-sufficient wage applicable to employed adult or dislocated workers served with local formula funds.

Subpart C—Rapid Response Activities

This subpart addresses the use of funds that must be reserved (up to 25 percent of dislocated worker funds allotted to States under section 132(b)(2)(B) of WIA) to provide rapid response assistance.

1. Section 665.300 describes what are rapid response activities and who is responsible for providing them. Rapid response assistance commences at the site of dislocation as soon as a State has received a WARN notice, a public announcement or other information that a mass dislocation or plant closure is scheduled to take place. The Department believes that this early intervention feature for dislocated workers, if provided in a comprehensive and systematic manner through collaboration between the State and Local Boards, One-Stop partners and other applicable entities, is critical to enabling workers to minimize the duration of unemployment following layoff. The Department strongly urges States and Local Boards to implement processes that allow for core services to be an integral part of rapid response assistance, preferably on-site, if the size of the dislocation or other factors warrant it. Further, WIA defines a dislocated worker at section 101(9) in a way that permits formula funds to be used for intensive and training services for workers: (1) As soon as they have layoff notices; or (2) six months (180 days) prior to layoff if employed at a facility that has made a general announcement that it will close within 180 days.

The Department believes that this is a critical period for workers, States, Local Boards, One-Stop operators and partners to begin to make important decisions. One important decision is whether there are sufficient formula funds in the State (at the State or local levels) to adequately serve the workers being dislocated, or whether national emergency grant funds must be requested in a timely manner so that all services are available to the workers when they need them.

2. In response to numerous concerns regarding whether rapid response funds may be used beyond those types of required rapid response assistance described in the Act and § 665.310, the Department has elaborated on the authorized rapid response activities in the regulation at § 665.320. These additional activities were recommended by experts consulted on this topic.

3. Section 665.330 addresses the linkage of rapid response assistance and WIA title I assistance to NAFTA-Transitional Adjustment Assistance (NAFTA–TAA). This linkage is an important feature of the One-Stop delivery system, and a requirement under NAFTA–TAA.

Part 666—Performance Accountability Under Title I of the Workforce Investment Act

Introduction

This part presents the performance accountability requirements under title I of the Act. This part of the regulations primarily summarizes the statutory language in the Act and clarifies a few key areas based on input the Department has received. WIA's purpose is to provide workforce investment activities that improve the quality of the workforce. The Department is strongly committed to a systemwide continuous improvement approach, grounded upon proven quality principles and practices. The regulations identify some of the major issues where further guidance will be provided.

Subpart A—State Measures of Performance

1. *Indicators:* Section 666.100 identifies the 15 core indicators of performance and the two customer satisfaction indicators that States are required to address in title I grant applications. The 15 core indicators represent the four core indicators that will be applied separately for the three population categories (adult, dislocated workers and eligible youth age 19 through 21) for a total of 12 indicators and the three youth indicators. There is one customer satisfaction indicator for participants and one for employers. Section 666.110 clarifies that Governors may develop additional performance indicators to be negotiated with Local Boards and that these additional indicators must be included in the State Plan.

2. *Definitions:* Section 666.100(b) also explains that the Departments of Labor and Education will issue more detailed definitions for the title I and title II indicators after further consultation with representatives identified in section 502(b) of WIA. The Departments will consult further on the indicator definitions, including taking into account factors such as the degree of difficulty and expense of collecting data and reporting on the measures.

3. *Negotiations:* As noted at § 666.120(a), the Department will provide further guidance on each of these areas after additional consultation. Section 666.120(b) addresses the requirement that States must submit expected or proposed levels of performance for the core indicators and customer satisfaction indicators for years one through three of the State Plan. The Department may require States to express levels of improvement as a percentage improvement over the previous year's actual performance. The Department recognizes that continuous improvement is more than incremental increases in performance and will develop a comprehensive and rigorous approach to integrate continuous improvement at all levels of the workforce investment system. The Department received input that underscored this need to view continuous improvement as a system building activity, not a compliance activity.

4. *Participants Included in Measures:* The Department was requested to clarify when a customer becomes a participant for the purpose of applying the core indicators of performance. Section 666.140 explains that all individuals, except for those adults and dislocated workers who receive services that are self-service or primarily informational, must be registered and included in the core indicators of performance. The Department will issue guidance to further specify which activities and services require registration and which ones do not. In addition, § 666.140(b) implements the requirement that a standardized record must be completed for registered participants.

5. *Wage Record Data.* Section 136(f)(2) of the Act requires States to use quarterly wage records, consistent with State law, to measure progress on the core indicators of performance. Section

666.150 clarifies that each State must describe its strategy for using quarterly wage record data for performance measurement in the State Plan. The State Plan must also identify the entities that may have access to the wage record data for this purpose. In addition, § 666.150(c) defines ''quarterly wage record information'' (1) as wages paid to an individual, (2) the individual's social security number (or numbers if more than one), (3) the employer's name, address, State where located, and (4) the Federal employer identification number (when known). As requested, the Department will continue to explore the implications and provide guidance for complying with the confidentiality requirements at section 444 of the General Education Act (20 U.S.C. 1232g (as added by the Family Educational Rights and Privacy Act of 1974). Furthermore, the Department will continue to take into account concerns about possible violations of State unemployment compensation laws, confidentiality and privacy statutes and wage record collection systems. The Department will issue further guidance about the use of quarterly wage records.

Subpart B—Incentives and Sanctions for State Performance

1. *Criteria:* Section 666.200 restates the eligibility criteria for States to apply for an incentive grant. Section 666.210 addresses the use of incentive funds for one or more innovative programs consistent with requirements of title I of WIA, title II of WIA and the Carl D. Perkins Vocational and Applied Technology Education Act.

2. *Timing:* There were suggestions that the Department postpone the incentive program until a State's second year progress report is received. Additional time has also been requested to enable the workforce investment system to have a year of performance information to assist in establishing baseline levels and to learn more about using the unemployment compensation wage records for performance measurement and about the data and reporting systems for title II Adult Education and Literacy programs and Carl D. Perkins programs. The Department recognizes these concerns and is considering available options. The regulations do not address the timing issue.

3. *Awards:* Section 666.230 explains that the Secretary of Labor will consult with the Secretary of Education and issue annual instructions listing the amounts of incentive funds available to each eligible State and giving application instructions. The list will be developed after annual performance reports are received and will be based on the reported performance. It also describes the factors that will be taken into account in determining the amount of Incentive Grant awards.

4. *Sanctions:* Section 666.240 explains that States failing to meet for any program adjusted levels of performance for core indicators and the customer satisfaction indicators for any program, in any year, will receive technical assistance, if requested. If a State fails to meet the required indicators for the same program for a second consecutive year, the State may receive a reduction of as much as five percent of the succeeding year's grant allocation.

Subpart C—Local Measures of Performance

Section 666.300 explains that each local workforce investment area will be subject to the same 15 core performance indicators and two customer satisfaction indicators that States are required to address. Governors may elect to apply additional performance indicators to local areas. Section 666.310 states that local performance levels will be based on the State adjusted levels of performance and negotiated by the Local Board and chief elected official and the Governor to account for variations in local conditions.

Subpart D—Incentives and Sanctions for Local Performance

Section 666.400(a) restates local area eligibility for State incentive grants. Section 666.400(b) states that the amount of funds available for incentive grants and specific criteria to be used are determined by the Governor. Section 666.420 also explains that local areas failing to meet agreed upon levels of performance will receive technical assistance for any program year. Governors must take corrective actions for local areas failing to meet the required indicators for two consecutive years.

Part 667 Administration Provisions

Introduction

This part establishes administrative provisions which apply to WIA programs conducted at the Federal, State and local levels. These regulations are written to clarify what was written in the Act and to assemble all of the administrative requirements from the various parts of the Act and other applicable sources in order to facilitate the administrative management of WIA programs.

Subpart A—Funding

This subpart addresses fund availability. Questions have been raised about to reallotment and reallocation focused on procedures and amounts. The regulation clarifies that the amount reserved for the costs of administration is excluded from the calculation of unobligated balances upon which reallotment/reallocation are to be based. The regulation also emphasizes that any amount to be recaptured and the reallotment/reallocation are to be separately determined for each of the three funding streams. Thus, for example, it is possible that a State may be subject to recapture of youth funds while receiving a reallotment of adult funds. The Department will provide additional guidance on these processes.

Subpart B—Administrative Rules, Costs and Limitations

1. *Fiscal and Administrative Rules:* This subpart specifies the Rules applicable to WIA grants in the areas of fiscal and administrative requirements, audit requirements, allowable cost/cost principles, debarment and suspension, a drug-free workplace, restrictions on lobbying, and nondiscrimination. This subpart also addresses State and Local Board conflict of interest and program income requirements, procurement contracts and fee-for-service use by employers, nepotism, responsibility review for grant applicants, and the Governor's prior approval authority in subtitle B programs. Section 667.170 sets forth the Department's authority to perform a responsibility review of potential grant applicants. The Department may review any information that has come to its attention as part of an assessment of applicant's responsibility to administer Federal funds. The responsibility tests include the items set forth in paragraphs (a)(1) through (a)(14). In this section, the term ''include'' is used as it is throughout the Interim Final Rule, to indicate an illustrative, but not exhaustive list of examples.

2. *Administrative Costs: Administrative Cost Limits:* Section 667.210 restates the provision of the Act which set a State level administrative cost limit of five percent of total funds allotted to the State by the Department and a local administrative cost limit of 10% of funds allocated by the State to the local area. It also provides that the cost limitation applicable to awards under subtitle D will be specified in the grant agreement. In addition, this regulation includes a provision which excludes from the administrative cost limitation calculation the acquisition

costs of hardware and software used for tracking and monitoring participants, and for collecting, storing and disseminating information required as a core service under the Act.

Definition of Administrative Costs: Section 667.220 provides the Department's definition of Administrative Costs. To comply with the statutory requirement for consultation with the Governors in developing this definition, the Department consulted with representatives of the Governors and included both State and local stakeholders in the discussion. In addition to the input received through the consultation, the Department received suggestions related to the definition of administrative costs in various forums and by direct communications from a number of different sources. The key theme which emerged is that the function and intended purpose of an activity should be used to determine whether the costs associated with it should be charged to the program or administrative cost category.

The Department received input regarding what to include and what to exclude from the definition of administrative costs. There were specific recommendations that costs of information technology and costs associated with continuous improvement activities be excluded from the administrative cost category. These suggestions helped the Department as it framed the regulation which defines administrative costs.

The Department valued this consultation and carefully considered all input and crafted its definition to incorporate this function-based approach. The regulation enumerates those functions of State Boards, Local Boards and boards of chief elected officials which are classified as administrative and indicates that those costs and the costs of like activities/functions performed by One-Stop operators are classified as administrative costs. The regulation also includes additional cost classification guidance to clarify areas where questions have arisen concerning the allocation of costs between the program and administrative categories. The regulation provides the system with the flexibility needed to allocate costs to the program or administrative cost category based on the purpose or nature of the activity or function. As a result, the locus of responsibility and intended purpose of the function, whether direct or indirect, determines the appropriate cost category.

3. *Prohibited Activities:* Sections 667.260 through 270 address a number of prohibited activities that are located in various sections of the Act. The regulation clarifies the Department's interpretation that the Act's prohibition on employment generating activities, economic development and other similar activities does not apply when they are directly related to training of eligible participants. It is not intended that such activities must benefit individually identified participants to be allowable, rather, such approaches as first source hiring agreements that promise to benefit participants as a group would suffice. The Rule includes a list of activities that may be provided as allowable economic development or similar activities. This list is not meant to be exclusive. There may be other activities of a similar nature that are directly related to training for eligible individuals that are permissible under WIA. In this section, the term include is used, as it is throughout the Interim Final Rule, to indicate an illustrative, but not exhaustive, list of examples. With respect to the prohibition of WIA support of inducing relocation of a business, the regulation provides a process for a preaward review to ensure that funds are not spent in violation of the provision. Section 667.269 specifies where the procedures for resolution of violations of these prohibitions, as well as the related sanctions and remedies, can be found.

Sectarian Facilities: Section 667.266 restates the Act's prohibition on the employment of participants in the construction, operation, or maintenance of a facility that is used for sectarian instruction or as a place of religious worship, and describes the Act's limited exception to this prohibition.

4. *Impairment of Collective Bargaining Agreements:* Section 667.270 lists the safeguards that ensure that participants in WIA activities do not displace other employees. These include the prohibition on impairment of existing contracts for services or collective bargaining agreements that is contained in WIA section 181(b)(2). When an employment and training activity described in WIA section 134 would be inconsistent with a collective bargaining agreement, the Rule requires that the appropriate labor organization and employer provide written concurrence before the activity begins.

5. *Labor Protections:* Section 667.272 requires that individuals engaged in on-the-job training or employed in activities under Title I of WIA must be paid at the same rate, including the same periodic wage increases, as other workers who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills. Wage rates must be in accordance with applicable law, and must be at least equal to the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law, whichever is higher. The determination of whether an individual is ''employed'' in a WIA activity for purposes of this provision, including participation in paid or unpaid work experience, must be made in accordance with the requirements of the FLSA. Questions regarding the application of FLSA to participants in WIA activities should be directed to the DOL, Employment Standards Administration, Wage and Hour Division.

Section 677.274 mandates that all Federal and state health and safety standards and state workers' compensation laws applicable to the working conditions of similarly situated workers are equally applicable to the working conditions of participants in programs and activities under Title I of WIA. Paragraph (b)(2) clarifies the application state workers' compensation laws to individuals engaged in work experience. If a State workers' compensation law does not apply to a participant in work experience, insurance coverage must be secured for injuries suffered by the participant in the course of such work experience.

6. *Nondiscrimination:* Section 188 of the Act prohibits discrimination on the basis of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and against certain noncitizens. It also requires the Secretary to issue regulations ''necessary to implement this section not later than one year after the date on enactment'' of the Act. The Department anticipates the publication of an Interim Final Rule to implement the nondiscrimination and equal opportunity provisions of the Act prior to July 1, 1999 (63 FR 62003, November 9, 1998). The Rule will be located at 29 CFR part 37.

The provisions of WIA sec.188 are substantially similar to sec. 167 of JTPA, as amended. As a consequence, the Department anticipates little difference between 29 CFR part 37 and the regulation implementing sec. 167.

Section 667.275(a) provides that recipients must comply with the nondiscrimination and equal opportunity provisions of the Act and its implementing regulations. This provision is substantially similar to that found in § 627.210, the companion section of the regulations implementing

the JTPA. A slight modification has been made to the language to eliminate any possible confusion about who is covered by sec. 188. The term recipient, as used in § 671.275, has the same broad meaning as that found in other civil rights regulations (for example, in 29 CFR parts 31, 32, and 34), and that meaning will be carried over to 29 CFR part 37. In the context of § 667.275, a recipient is any entity that receives funds under title I of the Act (except for the ultimate beneficiary) whether the assistance comes directly from the Department, through the Governor, or through another recipient. Some entities may be identified as vendors or subrecipients, or some other term. However, for the purpose of § 667.275, these entities are considered recipients and subject to section 188 and its implementing regulations. Section 667.275 generally follows the language in § 667.210, but provides for the exception found in sec. 188(a)(3). This exception allows for using funds under title I of WIA to employ participants in maintenance of a part of a religious facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants.

Subpart C—Reporting Requirements

There were suggestions and questions related to the mechanics of reporting. In response, § 667.300 indicates that the Department will issue instructions and formats for financial, participant and performance reporting. We anticipate that reporting will be done electronically. Section 667.300 also provides that a grantee may impose different reporting requirements on its subrecipients including different forms, shorter due dates, etc. When a State is the grantee and plans to impose different reporting requirements, it must describe them in its State Plan. Section 667.300(e), concerning the Annual Performance Progress Report specifies the situations under which a sanction, including a possible reduction in the subsequent year's grant amount, may be imposed.

Subpart D—Oversight and Monitoring

This subpart includes regulations which provide for both Federal and State oversight responsibilities. For formula grants, the Department's monitoring of the States will be conducted primarily at the State level and may include a sample of subrecipients. The regulation emphasizes the requirement that States funded under this program develop a Statewide monitoring system. States must be able to demonstrate that the monitoring system meets certain regulatory requirements. One way to so demonstrate is to make a monitoring plan available for Federal review. The regulation which specifies the oversight roles and responsibilities of WIA grant recipients and subrecipients reflects the statutory language of sections 183 and 184 of the Act.

Subpart E—Resolution of Findings from Monitoring and Oversight Reviews

1. *Resolution of Findings and Grant Officer Resolution Process:* This subpart addresses the resolution of findings that arise from audits, investigations, monitoring reviews, and the Grant Officer resolution process. The processes are essentially the same as they were under JTPA.

2. *Nondiscrimination:* To avoid confusion about which procedures apply to nondiscrimination findings, the regulation specifies that findings arising from investigations or reviews conducted under nondiscrimination laws are to be resolved in accordance with section 188 of the Act and the applicable Department of Labor nondiscrimination regulations. While 29 CFR part 34 is currently in effect, the Department will issue a new 29 CFR part 37 to specifically implement the provisions of section 188 of WIA. Therefore, States which do not fully or partially implement WIA before July 1, 2000 will be subject to the rules of 29 CFR, part 34 during PY 99. All States that implement early, including those which implement under a transition plan, will be subject to the new rules at 29 CFR, part 37, during PY 99.

Subpart F—Grievance Procedures, Complaints, and State Appeals Processes

There were recommendations for and against the application of grievance procedures to One-Stop partners not funded by the Department. In response, the regulations allow such partners to file a grievance or complaint when they are affected by the WIA system, but do not attempt to address any grievance or complaint that might arise about their own programs. Grievance procedures available in partners' programs are those available under the law authorizing that program. A person who believes that a partner may have violated WIA may use the grievance procedure available under WIA.

1. *Grievance Procedures*: Section 667.600 describes those elements required for local area, State and other direct recipient grievance procedures. It also specifies that complaints of discrimination follow the resolution process at sec. 188 and Department of Labor nondiscrimination regulations. The regulation specifies the two situations in which the Department will investigate and/or review allegations that arise through local, State and other direct recipient grievance procedures. In particular, as part of the State's responsibilities, it must provide an opportunity for a timely review of local level grievance adjudications.

2. *Complaints and Appeals*: Sections 667.630–650 address complaints and reports of criminal activity, and the additional appeal processes which a State must have for its WIA programs for nondesignation of local areas, termination of eligibility or denial of training providers, and testing and sanctions for use of controlled substances.

Subpart G—Sanctions, Corrective Actions, and Waiver of Liability

This subpart addresses sanctions and corrective actions, waiver of liability, advance approval of contemplated corrective actions, as well as the offset and State deduction provision.

Subpart H—Administrative Adjudication and Judicial Review

This subpart specifies those actions which may be appealed to the Department's Office of Administrative Law Judge (OALJ), and the rules of procedure and timing of decisions for OALJ hearings. Section 667.825 sets forth special requirements that apply to reviews of MSFW and INA grant selections. These rules are similar to those currently in effect under JTPA. Section 667.840 also provides for an alternate dispute resolution process. In addition, § 667.850 describes the authority for judicial review of a final order of the Secretary.

Subpart I—Transition

Section 667.900 indicates that a Governor may reserve up to two percent of Program Years 1998 and 1999 JTPA formula funds, of which not less than 50% must be made available to local entities, for expenditure on WIA transition planning activities. It specifies that the source of funds may be any one or more of JTPA's titles or subtitles. It includes a provision that expressly states the Department's position to exclude funds so reserved from any calculation of compliance with JTPA cost limitations. The Governor must decide to make the funds available to one or more local entities. These might include a local JTPA entity, a local entity established for the purpose

of operating WIA programs, or any other local entity. Additional information and guidance on the process of transition will be forthcoming.

Part 668—Indian and Native American Programs

Introduction

This part establishes the operation of employment and training programs for Indians and Native Americans under the authority of section 166 of the Act. This part is broken into subparts dealing with: Purposes and policies; service delivery systems; customer services; youth services; services to communities; grantee accountability; planning and funding; administration; and miscellaneous provisions such as waivers. In crafting the section 166 regulations, the Department attempted to represent the program from the grantees' perspectives, and to provide an organization which is relatively easy to follow and as comprehensive as possible without repeating major sections of the general WIA administrative regulations contained in part 667. Cross-references to that part are provided in the body of these regulations, when appropriate.

Need for Regulations

There are several reasons why these regulations exist separately, and why they contain the areas regulated. The primary reason separate regulations are drafted for the section 166 program is that it is clearly the intent of Congress and the Administration that there be a supplemental employment and training program under WIA solely for Indians and Native Americans, with requirements, policies, and procedures unique to that customer group. The current grantee community stated a desire to have regulations which are as self-contained as possible. Therefore, some material covered under the regulations implementing the State workforce investment system is repeated in these regulations, but usually not in the depth contained in part 667. Cross-references direct the grantee to sections where greater detail is provided.

Subject Areas Covered

The specific subject areas covered by these regulations, and cited above, are being regulated because the language of section 166 does not cover the detailed operation of the program. Statements of policy are made to clearly delineate the Department's position with respect to the section 166 program and the nature of the relationship between the Department and its section 166 grantees. Areas such as those concerning the designation of section 166 grantees must be regulated in order to clarify the statutory provisions, and it is desirable to clearly define these procedures and requirements for ease of compliance by those who are or wish to be part of the system. The subparts in this Interim Final Rule represent a logical sequence, from policies and purposes through miscellaneous provisions, generally representing the reality of program implementation as experienced by the typical grantee. This sequence reflects grantee comments. The primary vehicle for soliciting input on these regulations is the Native American Employment and Training Council. Drafts of areas under consideration for regulation were circulated to the grantee community by the Council, in their statutorily-mandated advisory role. Input received from grantees came either through the Council or directly to ETA's Division of Indian and Native American Programs (DINAP), either in writing (including faxes), orally (over the telephone), or via E-Mail. There were also discussion sessions held at the three multi-regional meetings in Washington, DC, Albuquerque, and Maui, as well as at the Advisory Council meeting in November in Washington, DC. Each of these meetings generated suggestions which were considered in crafting the present regulations. Input was also received through individual members of the Work Group, which is a body composed of Council members and other select grantee program directors, and is an official Council subcommittee. All in all, well over 50 parties submitted views on various aspects of the draft regulations. The most significant input is synopsized below.

Areas Not Covered

Because a Final Rule will be effective for PY 2000, this Rule was designed to address issues that affect grantees who implement in PY 1999. The Department will issue program direction and administrative guidance to assist implementing grantees. These areas are as follows:

1. *Transition to WIA*: Although several sections allude to the transition, no detailed instructions are included in this Rule. Because this event will occur only once for each grantee, the Department decided that the conversion from JTPA to WIA would be more appropriately covered in administrative guidance to be completed and distributed to grantees at a later date. This includes the closeout of JTPA grants.

2. *Public Law 102–477*: A separate subpart was suggested to address the various aspects of the demonstration under Pub. L. 102–477, The Indian Employment, Training and Related Services Demonstration Act of 1992, including procedures for transitioning from a JTPA/WIA grantee to a ''477 tribe.'' Because no separate regulations are authorized for the demonstration, and participation is limited by law to Federally-recognized tribes and Alaska Native entities, it was decided that such a subpart would be inappropriate. However, § 668.930 clearly states that grantees who qualify may participate under Pub. L. 102–477. The Department considers this to be an adequate reference for these regulations.

3. *Supplemental Youth Services*: The Department believes that establishing a separate subpart for youth services adequately covers the provision of youth services for these regulations, but it recognizes that further instruction in the creation and submission of these youth plans will be necessary. In order to provide the flexibility needed to adapt to these changes as they occur, the Department believes it is appropriate at this time to provide policies and procedures for the youth program in program guidance and policy documents.

4. *Performance Measures and Standards*: While performance measures and standards are referenced in § 668.460 and § 668.620, these regulations do not specify which measures may or must be used, or how accompanying performance standards will be derived. The development of revised performance measures and levels for Native American employment and training grantees has been on-going for several years under JTPA, and will continue under WIA. This effort is considered to be on a ''separate track'' from the development of regulations, whether under JTPA or WIA. When section 166 performance measures and standards are finalized, they will be transmitted to the grantees in a separate administrative issuance, and will not appear in regulations.

Subpart A—Purposes and Policies.

1. *Self-determination*: In § 668.120, the Department clearly commits to the principles of self-determination and sovereignty, and names DINAP as the ''single organizational unit'' required in the Act to administer section 166 programs. In addition to the language in the Act, which the Department thought it appropriate to repeat by paraphrasing, the Department has added a statement on helping customers achieve personal and economic self-sufficiency. The Department considers this statement to be one of the prime purposes of all

Federal employment and training efforts, and especially appropriate to the Native American population.

2. *Consultation*: The operating principle of ''partnership'' is embodied in these regulations at § 668.130, which paraphrases section 166 (h)(2) of the Act.

3. *Definitions*: These regulations do not repeat definitions covered in the Act or in the main definitions section at § 660.300. The term ''underemployed'' is defined in this section of the regulation because it is not defined elsewhere, and the definition of ''family income'' is specific to Indian and/or Alaska Native circumstances. The Department has made clarifications to the definition of ''family income'' for section 166 purposes. The regulations include a section from the Alaska Native Claims Settlement Act (ANCSA) (43 U.S.C. 1626(c)) concerning the treatment of income for Alaska Natives which is applicable by law to all Federally-funded programs.

4. *Applicable Regulations*: To create a more ''user friendly'' document, the Department added § 668.140 to the Rule, which describes what other regulations affect upon section 166 program operation.

Subpart B—Service Delivery Systems

1. *Designation*: The current JTPA designation procedures, eligibility requirements, competition hierarchies, etc., are retained in this Interim Final Rule for PY 1999. WIA section 166 requires that grantees be selected on a competitive basis except where a waiver of competition is granted due to successful performance. The requirements for the selection of grantees through the designation process are set forth in § 668.200—§ 668.280. In order to be selected as an INA grantee, an entity must have legal status as a government or agency of a government, a private non-profit corporation or a consortium containing one of these groups; it must have the ability to administer federal funds as determined under § 668.220; and it must meet certain eligible population requirements. To be consistent with the goal of the Indian Self-Determination and Education Assistance Act and to provide Indians with the opportunity to achieve ''self-determination essential to their social and economic well-being,'' the rule, at § 668.210, gives priority in the competitive designation process to federally-recognized Indian tribes, Alaskan Native entities and consortia of these entities. However, as part of the competitive selection process, no entity may be designated as an INA grantee unless it demonstrates that it has the ability to administer federal funds, as defined in § 668.220. The Department believes that this process is consistent with the mandates of the Indian Self-Determination and Education Assistance Act and with the requirement that grants, contracts, and cooperative agreements be made on a competitive basis.

The Department is establishing a new designation threshold for PY 2000 and beyond in § 668.200(b)(3), with allowances made for smaller grantees wishing to participate in the demonstration under Pub. L. 102–477. Also for PY 2000, the dates for submission of the Notice of Intent and any additional required supporting documentation, contained in §§ 668.240 and 668 .250, are different from those for PY 1999, primarily to allow both applicants and the Department more time to implement the designation process, especially in the event of more than one applicant competing for a given service area. An area of frequent comment involved the current JTPA criteria for designation as a Native American grantee, specifically the issues of size and the competition hierarchy. Most of the suggestions received were from smaller Federally-recognized tribes, either without the currently required 1,000 Indian or Native American population in their service area or without a significant reservation land base from which to claim a Hierarchy 1 preference. There were suggestions that the Department abandon the numbers altogether, and instead assign a dollar threshold which would be a better indication of grantee viability. For the PY 2000 designation and beyond, the Department has chosen $100,000 as the minimum funding threshold. This includes any supplemental youth services funds awarded to the grantee. In response to requests from some smaller grantees, the Department has included in § 668.200(b)(3) a statement ''grandfathering in'' those current grantees which do not meet the $100,000 threshold for PY 2000 and beyond. Also in response to suggestions received from some smaller, non-JTPA tribes wishing to participate in the demonstration under Pub. L. 102–477, the Department made the $100,000 limit applicable to total resources to be included in the ''477 plan.'' This will enable the smaller Federally-recognized tribes to receive their own WIA funding and participate in the demonstration authorized by P.L. 102–477, if their total employment and training funds to be included in the plan equal or exceed that dollar threshold. There were also suggestions that the Department attempt to accommodate Congressionally mandated service areas, States and counties identified in statute as comprising the service area of a specific tribe into the hierarchy system, which these draft regulations attempt to do. The Department will continue to review this issue as it develops the Final Rule.

2. *Geographic Coverage*: To address problems which have arisen under JTPA, § 668.294 states the Department's position on covering specific geographic areas for which there are no viable entities willing or able to provide services under section 166 of WIA. The Department will make every effort to fund suitable grantees for each area. If a suitable grantee cannot be found, the funds for that service area will be used for technical assistance or distributed among other grantees.

3. *Funding Formula(s)*: As under JTPA, the WIA rule allocates funds for Native American grantees by geographic service area, based upon the funding formula set forth in § 668.300. The Department has chosen to allocate funds by formula rather than base grant amounts upon the levels proposed in grant applications for several reasons. First, other than a requirement that the Department consult with the grantee community on ''developing a funding distribution plan,'' the Act is silent as to how funds are to be distributed among selected grantees. The legislative history does not indicate any Congressional intent to deviate from the Department's traditional method of funding by a geographic allocation formula. The Department believes that experience in funding by formula under JTPA for over 15 years has demonstrated success in ensuring sufficient funds for a high level of service to customers. Once a grantee demonstrates that it meets the minimum threshold for designation, including the ability to administer funds under § 668.220, the funding formula ensures that sufficient funds are available so that selected grantees can operate a viable, successful program. For these reasons, it is the Department's view that the proposed allocation formula of § 668.300 is consistent with the requirement that grants, contracts and cooperative agreements be made on a competitive basis. The current JTPA section 401 funding formula is retained in this Rule, pending further discussions on the subject during the formulation of the Final Rule during 1999. Also included in § 668.296 are the hold-harmless provisions, carry-in limitations, and the 1% set-aside for technical assistance and training (TAT) contained in the current JTPA regulations or policy.

Subpart C—Services to Customers

1. *Services to Customers*: The same basic JTPA section 401 eligibility criteria are being retained for the section 166 program. The allowable services are taken straight from the Act, and listed in this subpart for clarity and to further promote the ''user friendly'' approach of the regulations. Indian-specific activities, such as support of the Tribal Employment Rights Office (TERO), have been included, as well as the allowability of sequential enrollment or enrollment of participants in more than one WIA program.

2. *Restrictions on Allowable Activities*: Because of the importance of some of these restrictions, such as the prohibition on using WIA funds for economic development in the section 166 program, the Department included § 668.350 in these regulations rather than merely referring to similar sections in the State workforce investment system regulations. Section 668.350 lists these restrictions, primarily from WIA sections 181 and 195.

3. *Interaction with One-Stop Centers*: Section 668.360 recognizes that section 166 grantees are ''mandatory partners,'' in the One-Stop delivery system, and reiterates the statutory requirement for a memorandum of understanding (MOU) between the section 166 grantee and the Local Board. This section outlines the provisions the MOU must contain, and the circumstances under which the Local Board may engage the section 166 grantee in these negotiations. Because of the remote location(s) of some section 166 grantees (their distance from the nearest One-Stop center) and other logistical problems, especially for tribes serving rural areas, the Department recognizes that successfully executing a meaningful MOU with the Local Board may not always be possible. Thus, § 668.910 allows Federally-recognized tribes to request a waiver of section 121 requirements with the agreement of the Local Board. Although financial contribution to the operation of a One-Stop center is a matter of local negotiation, the funding and audit issues involving the restrictions on the uses of section 166 funds must be taken into consideration. The primary argument against having to financially support the One-Stop centers is that the State is already funded to serve Native Americans, at least for core services, and all requests for intensive and training services would probably be referred to the Native American grantee. The INA Rules specify the INA grantee's responsibility as a One-Stop partner. This part does not relieve the One-Stop system of its responsibility to serve Native Americans in the same manner as it serves all other individuals or specialized groups. Some parties also expressed concern that any funds provided to another agency which could not be directly tied to the provision of services to Native Americans could result in a disallowed cost to the INA grantee. In response to suggestions, the Department took a closer look at section 121 of WIA and attempted to write regulations in such a way that interaction with One-Stop systems would adhere to statutory requirements, but not dictate the exact nature of section 166 grantee interaction with the One-Stop system. Additional questions which were raised concerning the limitation on section 166 funds, that they only be used for the benefit of Native Americans. Questions dealt with financial support of a One-Stop center, and how this prohibition would be documented for audit purposes. Section 668.340 clearly states that no expenditures of section 166 funds may be made for individuals not eligible under section 166. Part 662 contains specific language that addresses One-Stop arrangements, including a similar provision providing that a partner's resources may only be used to provide services to individuals eligible under the partner's authorizing statute. This section also requires the grantees to describe the process for negotiating the MOU with their Local Board in their Two Year Plan.

4. *Payments to Participants*: Section 668.370 contains the same requirements about minimum wage coverage, the payment of allowances, the applicability of labor standards, and limitations on participant wages that were in effect under JTPA in 20 CFR part 632. The Department considers it important, for ease of reference by the grantees, to clearly state these requirements in regulations rather than cross-referencing the Act or other statutes. The Department also included a statement in § 668.370 specifically allowing the payment of incentive bonus payments to participants who meet or exceed established goals, to avoid audit questions which have arisen under JTPA section 401 activities.

5. *Grantee Capacity Building*: Section 668.380 reflects the Department's intention to provide section 166 grantees with technical assistance and training as required by section 166(h)(5) of the Act.

Subpart D—Supplemental Youth Services

It is significant that this is a separate subpart. Although this program is only available to certain types of entities, and eligible grantees will cover the provision of supplemental youth services in their Two Year Plan rather than in a separate document, the Department received suggestions for a separate youth subpart for clarity's sake. The Department agrees that supplemental youth services warrants a separate subpart in this Rule. In part 668, the youth requirements are covered in subpart D, with a minimum of definition beyond that provided in the Act, except for the funding formula (§ 668.440) and the provisions making the hold harmless factor, the reallocation provisions, and provisions concerning the use of funds not claimed by grantees applicable to youth funds as well. Section 668.460 covers the applicability of performance measures and standards to the supplemental youth program. A number of suggestions received from ''urban'' grantees indicated their desire to receive supplemental youth services funding. However, after further review, the Department decided that the language of the statute did indeed limit recipients of these funds to those entities serving Indian/Alaska Native/Native Hawaiian youth residing on or near a reservation. The regulations clarify additional details concerning the provision of supplemental youth services, such as the requirement that most participants be low-income individuals, that the definition of ''eligible youth'' applies to section 166 programs, that performance measures and standards are applicable to the supplemental youth programs, and that the funding provisions for the adult program (reallocation, carry-in limits, use of funds, etc.) also apply to youth programs.

Subpart E—Services to Communities

Not contained in the current JTPA section 401 regulations, this subpart, addressing services to communities, was included for purposes of clarification, following the recommendations of the Work Group. The regulations discuss the kinds of services that can be provided to communities and employers, such as customized training and child care. Many of these services, especially to communities at large, have been provided under JTPA for some time, but have not been discussed previously in regulations. Some of the provisions found here, however, appear in 20 CFR part 632 in various places, such as the reference to the Indian Financing Act of 1974, contained in § 668.520.

Subpart F—Accountability for Services and Expenditures

1. *Contents of Subpart*: This subpart reflects one of the Act's key reform principles of strengthened accountability, and contains sections on various aspects of grantee ''accountability,'' including the nature of the INA grantee's accountability to the Native American community, to the Department, and to the individual participants. Sections covered here include reporting, performance measures and standards, the prevention of fraud and abuse, grievance systems, and equal access provisions which are similar to the corresponding JTPA section 401 provisions. Several of the regulatory provisions, such as those at § 668.630(c) and (d) (gifts and nepotism), are unique to the Native American grantee program.

2. *Service Preference:* There has always been a controversy in Indian programs, dating back to JTPA and its predecessor, the Comprehensive Employment and Training Act (CETA), concerning the ability of a tribe to grant preference to its own tribal members at the expense of, or to the exclusion of, other Native Americans residing in its service area. These regulations clearly state that these exclusionary practices are prohibited. However, in response to grantee concerns, the regulations state that grantees may still identify target populations to be served (for example, the disabled, Temporary Assistance to Needy Families (TANF) recipients, substance abusers) and have this priority approved in the Two Year Plan.

Subpart G—Planning/Funding Process

This subpart contains details about plan formulation and submission, including the statutory requirement for a Two Year Plan for delivering comprehensive WIA services. Also included here are the Department's procedures for plan review and approval, and the requirements for subsequent plan modification. These procedures are being added to make the regulations more ''user friendly,'' and because there are changes from the procedures used under JTPA, such as the change from a one-year plan to a two-year plan, and the dropping of a requirement for a separate summer plan.

Subpart H—Administrative Requirements

1. *Contents of Subpart:* This subpart describes in detail the systems each grantee must have in place to properly administer a section 166 program under WIA. It also addresses cost allocation and allowability, audit requirements, applicable cost principles, cash management requirements, and the treatment of program income. Much of this subpart consists of cross-references to the appropriate general administrative sections of 20 CFR part 667, or to other Departmental or Federal regulations.

2. *Administrative Cost Limits:* By far the majority of suggestions received involved the issue of the administrative cost limit under WIA. Section 166 of the Act is silent on the level of administrative costs permitted. Many felt that the 10 percent (10%) limit on local workforce investment areas in title I would place a tremendous strain on even the largest programs, while making it impossible for smaller grantees to operate at all (97 out of 183 JTPA section 401 grantees receive less than $100,000 annually). The grantees who submitted suggestions all wanted at least the 20% administrative cost limit currently in place for JTPA, section 401, and the INA Welfare-to-Work (INA WtW) programs. To allay concerns over adjusting to new rates, § 667.210(b) provides that the INA administrative cost ceiling is to be established in the grant agreement. Any adjustments to the 10 percent limit will be addressed in the grant agreement, and will be based on the particular needs of the grantee.

Subpart I—Miscellaneous Program Provisions

Covered in this subpart are the regulatory and statutory waiver provisions under section 166(h)(3) of WIA, which were not available under JTPA. This includes the requirements for documenting a waiver and circumstances under which section 121 requirements may be waived, and provisions which may not be waived. Also covered are the allowability of participation in the demonstration under Pub. L. 102–477, and an elaboration of the role of the Native American Employment and Training Council. The latter section was added to clearly state the role of the Council in the consultative process, and to support its activities.

Part 669—Migrant and Seasonal Farmworker Programs under Section 167

Introduction

This part provides the program and administrative requirements for the operation of the Migrant and Seasonal Farmworker (MSFW) program, including the MSFW Youth program under section 127(b)(1)(A)(iii). Part 669 is organized in five subparts addressing: purpose and definitions; the MSFW program's service delivery system; MSFW customers and available program services; performance accountability, planning and waiver authority; and the MSFW youth program.

The MSFW program is administered nationally in the Department by using a limited competitive process to select applicants for grant awards. The selected grantees operate the grant programs in most States and Puerto Rico. The vehicle for soliciting and receiving comments during the development of the MSFW regulations is the Migrant and Seasonal Farmworker Employment and Training Advisory Committee. At the Committee's first meeting on November 5 and 6, 1998, two workgroups of volunteers from the grantee community were formed to assist the Department in developing the policies underlying these regulations. The members met to develop an initial discussion draft and continued providing comments by e-mail.

Subpart A—Purpose, Definitions, and Federal Administration

This subpart covers the statement of purpose at § 669.100, and provides applicable farmworker-specific definitions and Federal administrative requirements.

1. *Definitions:* The definitions in this subpart are those unique to this program. The major issues requiring definition are ''allowances,'' ''capacity enhancement,'' and ''emergency assistance.'' (Other terms are defined for clarification.)

Allowances—The MSFW program permits payments of allowances to enable individuals to participate in classroom training. The economic condition of most farmworkers does not permit their participation in full-time training without on-going financial assistance. The definition of ''allowances'' establishes when allowance payments are permitted and the maximum hourly rate. Grantees may use a lower rate.

Capacity Enhancement—Section 167 of WIA authorizes the Department to provide funds for capacity enhancement as part of technical assistance activities. The Rule provides that capacity enhancement includes staff training for grantee staff members. The MSFW program has a history of using discretionary funds to finance some of the costs of grantee staff development activities. The definition authorizes the continuation of such activities.

Emergency Assistance—Some parties expressed a need for reducing the administrative burdens relating to providing emergency assistance to farmworkers. These services are unique

for the MSFW program and address urgent needs of a short duration, such as medical, housing or food support required by MSFWs moving along the migrant stream. When applying for emergency assistance, farmworkers must provide personal and family information to demonstrate eligibility. The general program eligibility requirement of having to produce verifying source documentation such as annual tax returns that one would normally leave at home, frustrates grantees' attempts to respond to urgent needs of farmworkers. To rectify this problem, the regulation provides that when a person applies for emergency services only, an expedited eligibility determination process may be used. The process is expedited by exempting the grantee from requiring documentary evidence to support the farmworker's eligibility except regarding work authorization and compliance with Selective Service registration requirements. The farmworker's eligibility is established by a self-certification. This abbreviation of the application requirement for receipt of emergency assistance is consistent with the low unit cost of these services.

2. *Federal Administration:* Sections 669.120 and 669.130 provide that the Department's administration of the MSFW program will be under its national office, working directly with the operational grantees. Section 669.140 restates the Department's obligation to provide technical assistance. Sections 669.150 and 669.160 ensure consultation with the Secretary's Migrant and Seasonal Farmworker Employment and Training Advisory Committee. The MSFW Advisory Committee was established in 1998 under the Federal Advisory Committee Act (FACA) for this purpose, and it is intended that the Committee will advise the Department on a variety of MSFW program matters. Since WIA does not require the use of an Advisory Committee for the MSFW program, this section establishes by regulation the FACA consultative process for the MSFW program.

Subpart B—MSFW Program's Service Delivery System

This subpart contains provisions on the grantee selection process.

1. *Eligible Entities:* Section 167(b) of the Act requires that organizations seeking to operate MSFW programs demonstrate their familiarity with and an understanding of the target population. This capacity is critical to the entity's ability to effectively provide the services needed by MSFW's.

2. *General Approach to Service Delivery:* Grantees expressed concern that, without regulatory clarification, some Local Boards would refuse to recognize the MSFW grantee as a required partner in the One-Stop delivery system established under title I of the WIA. These regulations and those for the title I Adult and Dislocated Worker programs, clearly state that MSFW grantees are required partners in those local areas where grantee offices are located.

Grantees indicated that the regulations should provide for equitable availability of all WIA services to all farmworkers entering the One-Stop center doors. The primary service providers under Wagner-Peyser and the title I Adult and Dislocated Worker programs have a general responsibility to make their core, intensive and training services available to all eligible farmworkers on a basis that is equitable with other customer groups. The MSFW program has a specific responsibility to supplement the level of those services by offering farmworkers the services available under the MSFW program that are tailored for farmworkers. Although the services available from the MSFW program must include the general core services of the local One-Stop centers, the MSFW program provides services developed especially for addressing the unique needs of MSFW's.

To fulfill the required partner requirement, the MSFW grantee and the One-Stop centers must develop the coordination necessary for the effective delivery of One-Stop core services to farmworkers. This is to be achieved through the agreements negotiated between the MSFW grantee and the Local Boards. The resulting agreements, including appropriate cost sharing arrangements, are to be described in the Memorandum of Understanding. MSFW grantees have stressed the importance of having an operational structure under the regulations to establish good-faith negotiation of the MOU's. Without protections for ensuring the integrity of the MOU negotiations, these grantees believed that their participation at many One-Stop centers would be jeopardized. The specific environment expected is one that ensures the MSFW grantees have a level playing field for negotiating with the Local Boards. Both part 662 and § 669.220 make it clear that Local Boards and MSFW grantees must enter into good faith negotiations to develop an equitable assignment of roles, responsibilities and costs between them.

MSFW grantees have made it clear that they want to be recognized as required One-Stop partners only where it is geographically appropriate to their operations, stressing the importance of limiting the required MOU's within the States to those appropriate to the MSFW grantee's circumstances. This is due to the potential administrative burden in many States because of the large number of Local Boards with which MOU's would have to be negotiated. There is a clear preference for a regulatory provision permitting the negotiation of a single, Statewide MOU or limiting the required MOU's to those Local Boards where it is clearly meaningful, such as with those areas in which the MSFW grantee operates.

The regulations provide an operating structure for MOU negotiations. Section 669.350 states the MSFW grantees' obligations for providing the core services of the local One-Stop center to the farmworkers it serves. A corollary requirement exists for the Local Board under § 662.410(b). Basically, the process for addressing how respective obligations will be fulfilled is the negotiation of the MOU, as required for all local partners in a One-Stop delivery system. The regulation clarifies that the MOU's negotiated by the MSFW grantees shall provide the terms of necessary financial or in-kind compensation for services exchanged between the MSFW grantee and the Local Board. The matter of establishing an appropriate environment for negotiating MOU's is addressed in this section. It provides for ETA to determine when the MSFW grantee is responsible for failed negotiation of MOU's with Local Boards. Under the regulations for the One-Stop delivery system, any failure to execute a MOU with a required partner must be reported by the Local Board to the Governor, and by the Governor to the Secretary of Labor and to any other head of a Federal agency with responsibility for oversight of a partner's program. The regulation limits the required MOU's to those Local Boards located in areas where there is a grantee field office. This limitation establishes that the MSFW grantees are not required to negotiate MOU's with Local Boards serving geographic areas that are inappropriate for the MSFW program, such as areas where the MSFW program will not be operating. The Department encourages MSFW grantees to develop working relationships through electronic or other means for an appropriate purpose such as referral, in areas with large concentrations of MSFWS which are not served by a grantee field office.

3. *Termination:* Section 669.230 provides the grounds for terminating an MSFW grantee. The regulation provides authority for the Grant Officer to initiate

termination when there is a need to protect funds and when there is a substantial or persistent violation of requirements. It also outlines the procedures for emergency termination.

4. *Discretionary Account:* Section 669.240(b) authorizes the continuation of a discretionary account. Historically, the Department has been authorized to reserve up to six percent of the funds appropriated each year for the MSFW program to fund discretionary activities. These activities support those needs of MSFWs that are not met by the basic job training program. Such activities include grants to support housing programs for farmworkers, and ETA-sponsored technical assistance for grantees such as conferences, direct mini-grants for specific grantee needs, and other technical assistance activities. The delivery of technical assistance to grantee staff is consistent with the provision of ''capacity enhancement,'' described above. The funds also support the costs of the Secretary's Migrant and Seasonal Farmworker Advisory Committee. Section 669.240(b) continues this limited discretionary authority to use up to six percent of the funds appropriated under section 167.

Subpart C—MSFW Program Customers and Available Program Services

This subpart describes who is eligible for services provided under section 167 of WIA, the program responsibilities, and the nature and scope of the program activities authorized under the Act.

1. *Eligibility:* Section 669.320 summarizes applicant eligibility terms defined in section 167 (h) of the Act.

2. *Customer Approach:* Customer choice is a primary focus of WIA. The regulations are necessary to ensure that farmworkers have an opportunity to make choices about the services and training available to them. To meet these objectives, it is necessary to provide guidance to the MSFW grantees on serving their farmworker customers. This is achieved by providing services through a case management approach, which may include core, intensive, and training services, and related assistance and supportive services (§ 669.330). As provided in 20 CFR part 663, prior to intensive services, a participant must receive at least one core service, and prior to training services, a participant must receive at least one intensive service. The regulations provide, however, that the delivery of intensive services (§ 669.370) and training services (§ 669.410) may be combined under a single structure or continuum. To meet immediate needs of farmworkers and their families, § 669.360 authorizes grantees to provide emergency assistance—for example, services such as health care and housing assistance. This is an example of features within the MSFW program and these regulations to address the special needs of MSFW's. It illustrates how this MSFW program supplements through its diversity of approaches, the types of services available to farmworkers under the Adult and Dislocated Worker programs.

3. *Intensive Services:* Many farmworkers have special needs and require additional resources that the MSFW grantees are funded to provide. Accordingly, MSFW grantees provide intensive services, which may include individual employment plans, and may be based on objective assessments and periodic reviews of participant employment and training needs. Section 669.370 indicates the kinds of intensive services that are appropriate for MSFW's. This approach may differ from the service delivery design of a local One-Stop center because the MSFW program is intended to offer opportunities for MSFWs to redirect their lives by learning the skills and knowledge required for employment in higher skilled occupations. Usually, when farmworkers seek employment assistance from an MSFW grantee, they are trying to abandon seasonal farmwork (but not necessarily all agricultural employment) with its inherent uncertainty, poverty and other hardships. Helping farmworkers to overcome the barriers they face when seeking to attain better employment may require the concurrent provision of intensive and training services.

4. *Objective Assessment and Individual Employment Plan:* These two case management instruments may be utilized for participants seeking services beyond core services, and provide the means to achieve a sustained customer focus. The description of objective assessment is covered at § 669.380. The description of objective assessment is provided to clarify the range of resources available and to suggest that assessment should be an ongoing process. Customer focus is maintained through the use of an individual employment plan (IEP), a tool to identify the intensive services, training, and support services necessary to lead to economic self-sufficiency. The most important aspects of the IEP are that it is jointly developed between the customer and the service provider and that it should be continuously relied upon to guide the participant's participation to a successful conclusion. The IEP is a record of the participant's employment, training, and supportive services needs, and a mutually developed strategy for reaching the participant's goals. Regulatory guidance is necessary to ensure that the minimum standards expected by ETA and the grantee community, are understood and achieved in developing and maintaining IEP's for MSFW's.

5. *Training Services:* In addition to the training services authorized under section 134(d)(4)(D) and section 167(d) of the Act, experience has shown that additional training services, such as training in housing development assistance or workplace safety, are occasionally required to assist farmworker customers. Section 669.410 authorizes MSFW grantees to provide such services. Section 669.420 also regulates the minimum requirements for OJT contracts under the MSFW program.

Subpart D—Performance Accountability, Planning and Waiver Authority

This subpart addresses program administration, consultation with grantees and awarding of grants.

1. *Performance Standards and Measures:* Section 669.500 provides that the core performance indicators applicable to the formula programs under title I will also apply to the MSFW program. This section also authorizes the MSFW program to develop performance measures that are in addition to the core indicators of performance. The levels of performance for each indicator will take into account the characteristics of the participants to be served and the economic conditions in the area served by the grantee and negotiated as part of the grantee plan approval.

2. *Funding and Planning Documents:* Sections 669.510 through 669.540 describe the grant planning process. To reduce administrative effort at both the Federal and grantee levels, § 668.510 requires that the plans submitted cover a two-year (biennial) period even though funding is available on an annual basis. This represents a change from past requirements for single year plans and affords an opportunity for strategic planning and continuous improvement. Section 669.520 establishes the minimum requirement for the MSFW grant plan. Other requirements may be added by the Solicitation for Grant Application (SGA) for any given biennial period.

3. *Unilateral Modifications:* Section 669.540 authorizes the Department to unilaterally increase or reduce grant funding levels in response to Congressional action. The section also establishes the limitations under which grantees may unilaterally modify grant

plans and provide authority for bilateral modifications.

4. *Cost Classification and Reporting:* Section 669.550 describes cost classification and reporting procedures and addresses compliance with the administrative cost limitations.

5. *Waivers:* The general waiver authority in WIA does not apply to the MSFW program. However, waiver authority may prove beneficial for addressing unforseen circumstances encountered by MSFW program grantees. The regulations at §§ 669.560 and 669.570 provide MSFW program grantees with limited regulatory waiver authority to waive certain provisions of the WIA regulations.

Subpart E—The MSFW Youth Program

This subpart includes 669.600 through 669.680 which provide the introduction to the MSFW youth program by stating its purpose and its relationship to the MSFW program under section 167. Regulations at §§ 669.630 through 669.660 provide the qualifying process for receiving a MSFW youth grant.

1. *Designation of Grantees:* The section 167 MSFW youth program will be administered through grant agreements with eligible entities, selected through a competitive process. Sections 669.630 and 668.640 describe the eligibility criteria for designation and the process by which an entity may apply for designation as a MSFW youth program grantee. To be designated, an organization must submit a youth program plan in response to the Departments's Solicitation for Grant Applications. MSFW grantees expressed concern that a separate competition for youth grants would lead to instances where two different MSFW grantees were operating in the same areas. To respond to this concern, MSFW grantees operating within the same service area will be afforded special consideration in the grant competition.

2. *Allocation of Funds:* Section 669.650 regulates the funding of the MSFW youth program on a competitive basis by providing that the allocation of funds will be based on the merits of the proposal. In addition, the process may utilize allocation methods that promote a geographical distribution of funds that supports a balanced funding of both large and small scale competitive applications. The grantees also expressed concern that a larger jurisdictions would have a competitive advantage. To allay concerns over the potential for irregular distributions among jurisdictions and grantees due to relative differences in size, the regulations provide that the Department will use a means for geographical distribution that promotes acceptance of both large and small scale applications under the competition.

3. *Grant Plans:* Section 669.660 describes the planning documents required in an applicant's response to the Department's SGA and the applicable submission dates, respectively.

4. *Eligibility:* Section 669.670 establishes the eligibility criteria for farmworker youth who wish to participate in the MSFW youth program. They are youth age 14 through 21, who are economically disadvantaged.

5. *Allowable Activities and Services:* Section 669.680 authorizes the MSFW youth program activities. Specific activities are authorized by references to sections of the WIA and by described youth activities.

Part 670—Job Corps

Introduction

This part provides regulations for the Job Corps program, authorized in title I, subtitle C of WIA. The regulations address the scope and purpose of the Job Corps program and provide requirements relating to selection of sites for Job Corps centers; selection and funding of service providers; screening, selection and assignment of eligible youth to Job Corps centers; operation of Job Corps centers; and required services for Job Corps students. This part also provides regulations covering new WIA requirements such as the establishment of a business and community liaison and an industry council for each Job Corps center, and the focus on accountability, including specific performance measures for Job Corps centers and service providers. The Department's intent in these regulations is to incorporate the requirements of title I, subtitle C of the Act, and to describe the programs and services which must be available for Job Corps students, as well as the requirements dictated by the unique residential environment of a Job Corps center (such as provision of meals, transportation, recreational activities and related services).

Subpart A—Scope and Purpose

1. *Purpose:* This subpart indicates that part 670 contains regulatory provisions that apply to the Job Corps program, describes the purpose of the program, and provides definitions. It also specifies that the Job Corps Director is delegated authority to carry out the responsibilities of the Secretary under title I, subtitle C of the Act related to the operation of the Job Corps program, and that references in this part referring to ''guidelines'' or ''procedures issued by the Secretary'' mean that the Job Corps Director will issue such guidelines. Procedures guiding day-to-day operations are provided in a Policy and Requirements Handbook (PRH). The PRH includes minimum program requirements and expected outcomes for specific program components, such as education and training, student support, and administration. In addition, general guidance and best practices are provided for in a number of program areas in Job Corps Technical Assistance Guides issued by the Job Corps Director.

2. *Partnership:* The program purpose incorporates the Act's intent that Job Corps will operate as a national, residential program in partnership with States and local communities. The partnership theme is carried throughout various sections of part 670 in requirements for Job Corps centers and service providers to serve on local youth councils, to operate as a One-Stop partner, and to work with employers.

Several parties noted that the regulations provide in this subpart that Job Corps is a national program which operates in partnership with States, communities, Local Boards, youth councils, One-Stop centers and partners, and other youth programs, but argued that the earlier proposed language relating to partnership with One-Stop was not strong enough in other statements indicating services (such as outreach/admissions and placement) would be provided by One-Stop centers or partners to the extent practicable. The intent in using language such as ''to the extent practicable'' or ''to the fullest extent possible'' is not to limit or discourage the development of linkages between Job Corps and One-Stop, but to recognize (1) the language in section 145(a)(3) of the Act which requires the Secretary to conduct outreach and screening activities ''to the extent practicable'' through arrangements with applicable One-Stop centers, community action agencies, business organizations, labor organizations, and entities that have contact with youth; (2) the requirements in section 147 of the Act for selection of Job Corps center operators and other service providers (such as outreach/admissions, placement, and provision of continued services) on a competitive basis in accordance with Federal procurement law and regulations; and (3) the language in section 148(e) and section 149(b) of the Act which requires the Secretary to give priority to ''One-Stop partners'' in selecting a provider for continued services for graduates and to ''utilize One-Stop delivery systems to

the fullest extent possible'' for the placement of graduates into jobs. The use of these phrases should not be interpreted as a limitation, but as a statement of intent to enter into partnerships in all situations where it is feasible to do so.

Subpart B—Site Selection and Protection and Maintenance of Facilities

This subpart describes how sites for Job Corps centers are selected, the handling of capital improvements and new construction on Job Corps centers, and responsibilities for facility protection and maintenance. The requirements in this subpart are not significantly different from the corresponding requirements in the JTPA Job Corps regulations.

Subpart C—Funding and Selection of Service Providers

This subpart describes entities which are eligible to receive funds to operate Job Corps centers and to provide operational support services. It also describes how contract center operators and operational support service contractors are selected, emphasizing the requirements for competitive contract awards. New requirements, including consultation with the appropriate Governor, center industry council, and Local Board in development of requests for proposals for center operators, are included in § 670.310(a). In addition, § 670.310(c), describes requirements to be included in center requests for proposals to assess providers' past performance as well as their ability to coordinate Job Corps center activities with State and local activities (including One-Stop centers), and to provide vocational training that reflects employment opportunities in areas where students will seek jobs. These requirements are described in section 147(a)(2)(B) of the Act.

Subpart D—Recruitment, Eligibility, Screening, Selection and Assignment, and Enrollment

1. This subpart describes who is eligible for Job Corps under WIA and provides additional factors which are considered in selecting an eligible applicant for enrollment. This subpart also discusses who will conduct outreach and admissions activities for the Job Corps, and the responsibilities of those organizations. Section 670.450 describes the new requirements of section 145(c) of WIA for an assignment plan for Job Corps centers. Assignment plans will be developed and used to establish a target for each Job Corps center for the percentage of students enrolled who will come from the State or Department of Labor region in which the center is located, and the regions surrounding the center. In addition, this subpart addresses the requirement of section 145(d) of the Act that students must be assigned to centers closest to their homes, with consideration given to the special needs of applicants or their parents or guardians when making assignments.

Subpart E—Program Activities and Center Operations

1. *Program Activities:* This subpart describes the services and types of training each Job Corps center must provide, as well as center responsibilities in the administration of work-based learning. This subpart also describes the residential support services Job Corps centers must provide, and centers' responsibility for student accountability. Required residential support services include providing a safe, secure environment, an ongoing counseling program, food service, access to medical care, recreation, and leadership programs for students. In addition, centers must account for the whereabouts, participation, and status of students while they are enrolled in Job Corps.

2. *Behavior Management and Zero Tolerance for Violence and Drugs:* This subpart establishes requirements for Job Corps centers to have student behavior management systems. Section 670.540 describes Job Corps' zero tolerance policy for violence, drugs, and unauthorized goods. The regulatory language in this section continues current requirements for automatic dismissal of students who commit specific offenses (the one strike and you're out policy) specified in Job Corps' zero tolerance policy. The Secretary will issue procedures which continue this practice. Section 670.540 also addresses the requirements of section 145(a)(2) of the Act for drug testing of all students. This subpart also contains requirements to ensure students are provided due process in disciplinary actions. This process will include center fact-finding and review boards, and appeal procedures.

3. *Experimental, Research, and Demonstration Projects:* This subpart also addresses the authorization, provided in section 156 of the Act, for experimental, research and demonstration projects related to the Job Corps program.

Subpart F—Student Support

This subpart includes authorization of leave for students from center activities, and provisions of cash allowances and bonuses, and clothing for students. In addition to being eligible to receive transportation, students are eligible for other benefits, including basic living allowances to cover personal expenses, such as toiletries, snacks, etc., in accordance with guidance issued by the Secretary. The allowance and bonus system is structured to provide incentives for specific accomplishments of students, such as vocational completion. Students are also provided with a modest clothing allowance to enable them to obtain clothes that are appropriate for class and for the workplace.

Subpart G—Placement and Continued Services

1. *Placement Services:* This subpart discusses placement services for graduates of the Job Corps program in accordance with section 149 of the Act. The regulation focuses on graduates, which is a significant change from previous Job Corps policy and practice, since placement services have traditionally been provided for all students who leave Job Corps, no matter how long they were enrolled or how much of the program they completed. The regulatory language in this subpart is substantially different from what is contained in the JTPA Job Corps regulations to reflect the emphasis in title I, subtitle C on provision of services for graduates. The authority provided in section 149(d) of the Act, to allow for placement of former students (non-graduates), is reflected in § 670.710, but placement services are not required for anyone other than graduates. The ability to provide placement services for former students as well as for graduates will be contingent on having the funding resources to do so. It is, therefore, likely that the level of placement services for graduates and for former enrollees will differ. This subpart also discusses who will provide placement services, and the responsibilities of Job Corps placement agencies in placing graduates in jobs.

2. *Continued Services for Graduates:* This subpart discusses section 148(d) of the Act, which requires provision of 12 months of continued service for graduates. Sections 670.740 and 670.750 discuss this requirement and who may provide those services. Provision of continued services is a new requirement, and a new level of effort for Job Corps service providers, and will likely divert some funding resources which have been used in the past for provision of placement services for all students.

Subpart H—Community Connections

1. This subpart describes new requirements for Job Corps representatives to serve on local youth councils, as provided for in section 117(h) of the Act, for center business and community liaisons, and for center industry councils. Section 670.800(d) describes the role of center industry councils, as prescribed in section 154(b) of the Act, to analyze labor market information and identify job opportunities in areas where students will seek employment and the skills needed for those jobs, and to recommend changes in center vocational training offerings as appropriate. The intent of this subpart is to provide regulatory language to tie Job Corps centers more closely to their local communities and local employers to ensure that the vocational and other training students receive will enable them to obtain meaningful jobs in their home communities when they graduate.

Subpart I—Administrative and Management Provisions

1. *Student Benefits and Protections:* This subpart provides requirements relating to Tort Claims, Federal Employees Compensation Act (FECA) benefits for students, safety and health, and law enforcement jurisdiction on Job Corps center property.

2. *Program Accountability and Performance Indicators:* Subpart I also incorporates specific requirements relating to performance assessment and accountability contained in section 159(c) of the Act, as well as requirements for performance improvement plans, as provided for in section 159(f)(2), for Job Corps center operators or other service providers who fail to meet expected levels of performance. Sections 670.975 and 670.980 describe how performance of the Job Corps program will be assessed and the required indicators of performance. Indicators of performance include placement rates of graduates in jobs, including jobs related to vocational training received, average wage at placement and six and twelve months after job entry, retention in employment six and twelve months after job entry, the number of graduates who achieved job readiness and employment skills, and the number who entered postsecondary or advanced training programs.

3. *Financial and Audit Responsibilities:* This subpart also discusses financial management responsibilities of Job Corps center operators and other Job Corps service providers, as well as Federal audit requirements.

4. *Disclosure of Information and Resolution of Complaints:* This subpart includes requirements relating to student records and disclosure of information about Job Corps students; and procedures for resolution of complaints and disputes of students and other parties by center operators and service providers.

Part 671—National Emergency Grants for Dislocated Workers

Introduction

Section 170 of WIA provides for technical assistance, and section 171 provides for demonstration, pilot, multiservice, research and multistate projects. Although the Department has not regulated on these sections, it is important to note these activities for the general workforce investment system.

Section 170(a) provides that the Secretary will provide, coordinate and support the development of training, technical assistance, staff development and other activities to States and localities, and in particular, to assist States in making transitions from carrying out JTPA to carrying out activities under title I of WIA.

Section 170(b) provides for a portion of the funds reserved by the Secretary under WIA section 132(a)(2) to be used to: (1) Assist States that do not meet the State performance measures for dislocated workers; (2) assist other States, local areas and other entities involved in providing assistance for dislocated workers and to promote continuous improvement to dislocated workers under title I of WIA; or (3) assist staff who provide rapid response services, including training of those staff regarding proven methods of promoting, establishing and assisting labor-management or transition committees to plan for effective adjustment assistance for workers impacted by dislocation events.

Section 171(a), (b), and (c) of WIA describe employment and training projects which may be funded as well as the processes for such funding. Section 171(d) provides for dislocated worker demonstration projects and pilot projects, multiservice and multistate projects. The purpose of dislocated worker demonstration projects is to test innovative approaches that address priorities established by the Secretary, are consistent with the goals described in WIA, and subsequently may prove beneficial in providing adjustment assistance to larger dislocated worker populations. Generally, projects will be funded as a result of competitive solicitations published in the **Federal Register**, however, the Secretary may negotiate and fund projects other than through such solicitations.

Part 671 describes the availability of a portion of the funds reserved by the Secretary under WIA section 132(a)(2)(A) for assistance to dislocated workers.

1. *National Emergency Grants:* Part 671 contains limited regulations regarding dislocated worker funds reserved for national emergency grants. Section 173 of WIA authorizes the Secretary to award discretionary funds to serve dislocated workers in certain situations. These regulations describe circumstances under which funds may be available, including to provide employment and training assistance to workers affected by major economic dislocations (such as plant closures, mass layoffs, closures or realignments of military installations, dislocations due to federal policies, etc.); and to provide assistance to Governors of States when FEMA has determined that a major disaster, as defined in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 (1) and (2)), has occurred in the area.

These regulations emphasize the importance of rapid response assistance for the development of requests for national emergency funds. The Department sets a high priority on the early collection of information regarding workers being laid off, receiving requests for funds when there are insufficient State and local dislocated formula funds available to meet the needs of workers being laid off—to ensure that there are funds available in the local area when the workers first need the assistance. Early intervention to assist workers being dislocated is critical to enable them to find or qualify for new jobs as soon as possible after the dislocation occurs. While these regulations highlight some of the key elements and requirements for applying for national emergency funds, guidelines to apply for national emergency funds will be published separately in the **Federal Register**.

Part 652—Establishment and Functioning of State Employment Services

Introduction

This part implements the amendments to the Wagner-Peyser Act (the Act) made by WIA. The WIA amendments add regulations at 20 CFR part 652, subpart C and make technical changes to subpart A.

Subpart A—Employment Service Planning and Operations

In subpart A, the Department removes references to JTPA, and replaces them with WIA. It also updates definitions and removes and reserves two sections. These WIA amendments to the Act are effective July 1, 1999.

A comprehensive reading of WIA shows that Congress intended to ensure a central role for the Wagner-Peyser Act State agency designated to administer funds authorized under the Act to provide job finding and placement services to job seekers, including unemployment insurance (UI) claimants, veterans, migrant and seasonal farm workers, disabled individuals, and employers in the State One-Stop delivery system. The regulations governing the operation of the basic labor exchange program have been located at 20 CFR part 652, subpart A for many years and they are well known to State agencies administering the Wagner-Peyser Act. The Workforce Investment Act changes the environment in which the existing rules are applied. It does not amend the statutory provisions underlying the rules. The Department determined that it would not be appropriate to add new rules resulting from amendments to the Wagner-Peyser Act to 20 CFR part 652, subpart A, but that it is important the new rules be linked with the existing rules. Therefore, the Department restricted amendments to the Wagner-Peyser Act regulations at 20 CFR part 652, subpart A to only those reference citations required by the Workforce Investment Act. The Department will raise no issue under 20 CFR part 652 with States solely on the basis that they operate under JTPA during PY 1999. The operations rules governing Wagner-Peyser Act services required by WIA are reflected in part 20 CFR 652, subpart C.

Subpart C—Wagner-Peyser Act Services in a One-Stop Delivery System Environment

Section 652, subpart C, §§ 652.200 through 652.216, describe the requirements for the establishment and functioning of State Wagner-Peyser Act services in a One-Stop delivery system environment. The State must maintain Wagner-Peyser Act funds under the authority of the Governor as a separate funding source to ensure a statewide delivery system of public labor exchange services. These regulations specify that the Wagner-Peyser Act agency retains responsibility for, and oversight of, all Wagner-Peyser Act services provided through the One-Stop delivery system, and explain that funds allocated to States under section 7(a) must be used to deliver Wagner-Peyser Act services through the One-Stop delivery system. Each of the three tiers of labor exchange service must be available: self-service, facilitated self-help service, and staff-assisted service. Sections 652.209 and 210 strengthen the relationship between the Wagner-Peyser Act State agency and the UI agency by requiring that reemployment services be provided, commensurate with available resources and in conjunction with other One-Stop partners, to those UI claimants who are required under any Federal or State UI law to receive the services as a condition of receiving unemployment benefits. The regulations reflect the Department's interpretation of the Wagner-Peyser Act, affirmed in *State of Michigan* v. *Alexis M. Herman,* (W.D. MI, Southern Div.) to require that job finding, placement and reemployment services funded under the Act, including services to veterans, be delivered by public merit-staff employees.

The Department is issuing these regulations after carefully considering and reacting to input received from the public. The preponderance of input focused on two themes: the relationship between the Wagner-Peyser Act State Agency and the One-Stop delivery system centers, and the preservation of the merit system for public employees.

A range of suggestions were received regarding the relationship between Wagner-Peyser Act services and the One-Stop delivery system. These regulations emphasize the State Agency's role as a One-Stop partner in delivering services seamlessly to job seekers and employers as a part of the One-Stop delivery system. State agencies have flexibility to deliver labor exchange services appropriate to local needs in accordance with a Memorandum of Understanding entered into with the local workforce investment board.

Some parties responding to merit-staff issues expressed concern that merit-staff employees might potentially come under the direction of an individual who is employed by a different agency or entity. In response to this concern, the Department has written the regulations at § 652.215 and § 652.216 to emphasize the retention of merit system protections for public employees, and limit the One-Stop operator to providing guidance to employees funded under the Wagner-Peyser Act in accordance with an agreed-upon MOU.

III. Regulatory Flexibility and Regulatory Impact Analysis

The Regulatory Flexibility Act of 1980, as amended in 1996 (5 U.S.C. chapter 6), requires the Federal government to anticipate and minimize the impact of rules and paperwork requirements on small entities. ''Small entities'' are defined as small businesses (those with fewer than 500 employees, except where otherwise provided), small non-profit organizations (those with fewer than 500 employees, except where otherwise provided) and small governmental entities (those in areas with fewer than 50,000 residents). ETA has assessed the potential impact of this Interim Final Rule by consulting with a wide range of small entities, in order to identify and address any areas of concern. Based on that assessment, the Agency certifies that the Interim Final Rule, as promulgated, will not have a significant impact on a substantial number of small entities.

The WIA Interim Final Rule implements major reforms to the nation's job training system. The WIA will provide resources to states, localities, and other entities, including small entities, to assist youth, adults, and dislocated workers in preparing for, obtaining and retaining employment. This Rule sets forth the rights, responsibilities and conditions under which state and local governments may receive grants to operate programs in local workforce investment areas with such funds. Governments in local workforce investment areas are not small governmental entities. These areas generally have a population of at least 500,000 and are intended to replace existing service areas under the Job Training Partnership Act (JTPA) which generally have a population of at least 200,000. Consequently, the Department does not foresee an adverse impact on small governmental entities. Nevertheless, the Department has consulted extensively with state and local officials and their representatives to insure that any potential effect would be minimal. These consultations included two week-long conferences in which state and local governmental participants worked in groups divided by specialized area of interest, and the participation of state and local governmental officials under the Intergovernmental Personnel Act.

The Department also provided a number of opportunities, through a variety of media, for the input of small businesses, non-profits and any other interested parties. These opportunities included 12 town hall meetings spanning the nation in ten locations,

and an interactive web site providing ETA policy and responses to questions from the public. Additionally, in order to solicit comments from the widest possible audience, ETA broadly disseminated its developing policies through the publication of a White Paper, among other documents, which were available on the Internet, published in the **Federal Register** and distributed throughout the employment and training community.

The Interim Final Rule provides significant flexibility to States and Local governments to design programs and to determine policy and spending priorities for the use of WIA grant funds. This policy-making flexibility is embodied in § 661.120. The Rule provides States and Local governments with additional flexibility to design systems that meet the specific needs of each state and local area through the general and work-flex waiver provisions at §§ 661.410 and 661.430. The Department has taken steps to further ameliorate any potential burdens through § 667.210 of the Interim Final Rule, which provides that states and localities may use a portion of their grant funds (up to five percent at the State level and up to ten percent at the local level) for management and administration of the grant, rather than for the direct provision of services to participants. Because the WIA statutory limit on administrative cost is lower than the existing JTPA limit, States and localities were also extensively consulted regarding the regulatory definition of these administrative costs to ensure that this cost category is defined as flexibly as possible. The Rule requires the reporting of costs in only two categories—program and administrative—and excludes certain information technology costs from the administrative cost category.

A portion of WIA funds is available for direct grants from the Department. ETA has consulted with representatives of the migrant and seasonal farm worker community, and Indian and Native American tribal governments to minimize any burdens that provisions of the Rule would have on those communities. The Rule provides limited authority to these grantees to receive waivers of certain provisions of the Rule, to lessen any burden on these communities.

To further ameliorate any burden on WIA direct grantees, the Rule permits direct grantees to use a portion of WIA funds for administrative costs expenditure. Unlike formula funds, the administrative cost limit for direct grantees is not specified in the Rule but will be negotiated in the grant agreement to take into account individual circumstances. Similarly, the period of availability for expenditure of grant funds is established in the grant agreement rather than set by Rule to take into account individual circumstances. Based on provisions such as these, the Department has concluded that the Rule will not place undue burdens on small entities. In addition, under to the Small Business Regulatory Fairness Act (SBREFA) (5 U.S.C. Chapter 8), the Department has determined that this Interim Final Rule is not a ''major rule,'' as defined in 5 U.S.C. 804(2). The Department certifies that this Interim Final Rule has been assessed in accordance with Pub. L. 105–227, 112 Stat. 2681, for its effect on family well-being.

IV. Executive Order 12866

Pursuant to Executive Order 12866, the Department has evaluated this Interim Final Rule and has determined its provisions are consistent with the statement of regulatory philosophy and principles promulgated by the Executive Order. The Department of Labor is required by statute to prescribe regulations for the WIA program within 180 days of enactment. Within this limited time frame, the Department has made every reasonable effort to obtain input in a purposeful manner from a variety of interested parties (State and local government officials, community-based organizations, Intergovernmental Organizations, other stakeholders, and the general public). The WIA grants increase the resources available to the public and private organizations that promote long-term employment and self-sufficiency. The Department has determined the Interim Final Rule will not have an adverse effect in a material way on the nation's economy.

The Department has developed the Interim Final Rule in close consultation with the Department of Education, and with other interested Federal agencies. Based on that consultation, the Department has determined that this Interim Final Rule will not create a serious inconsistency or otherwise interfere with any action taken or planned by another Federal Agency.

This Interim Final Rule implements the Workforce Investment Act, which is the only major reform of the nation's job training and employment system in over 15 years. Consequently, this Interim Final Rule raises novel policy issues. Therefore, the Department finds it to be a significant regulatory action which has been reviewed by the Office of Management and Budget for the purposes of Executive Order 12866.

V. Unfunded Mandates

The Interim Final Rule has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*) and Executive Order 12875. Section 202 of UMRA requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by state, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 of UMRA further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 of UMRA requires a plan for informing and advising any small government that may be significantly or uniquely impacted.

The Department has determined that the WIA Interim Final Rule will not mandate the expenditure by the State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year. Accordingly, the Department has not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significant or uniquely impacted small government.

VI. Effective Date and Absence of Notice and Comment

The Department has determined, in accordance with 5 U.S.C. 553(b)(3)(B), that the statutory mandate to promulgate regulations within 180 days of the enactment of the statute constitutes good cause for waiving notice and comment proceedings. Furthermore, WIA became effective upon the date of enactment, August 7, 1998. It is critical that the Department quickly issue regulations to assist States which wish to begin operating under WIA as early as possible. Congress also recognized this urgency in sec. 506(c) of the Act, by specifically authorizing the Department to issue an Interim Final Rule. Accordingly, the Department finds that the issuance of a Proposed Rule, rather than an Interim Final Rule, would be contrary to the public interest. This Interim Final Rule will become effective on May 17, 1999. The Department is committed to meeting the statutory deadline to issue a Final Rule by December 31, 1999. This Interim Final Rule sets a comment period to elicit any concerns raised by the rule for

consideration in the development of the Final Rule. The Department has provided a comment period of 90 days to provide a significant period for public input into any revisions to parts 652 and 660 through 671 for the Final Rule.

VII. Catalog of Federal Domestic Assistance Number

The program is listed in the *Catalog of Federal Domestic Assistance* at No. 17.255.

List of Subjects in 20 CFR Parts 652 and 660 through 671

Grant programs, labor, employment, job training programs.

Signed at Washington, DC, this 31st day of March 1999.

Alexis M. Herman,

Secretary of Labor.

Raymond L. Bramucci,

Assistant Secretary of Labor, Employment and Training Administration.

For the reason stated in the preamble, 20 CFR Ch. V is amended as follows:

1. Parts 660 through 671 are added and Part 652 is amended to read as follows:

PART 660—INTRODUCTION TO THE REGULATIONS FOR WORKFORCE INVESTMENT SYSTEMS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Sec.

§ 660.100 What is the purpose of title I of the Workforce Investment Act of 1998?
§ 660.200 What do the regulations for workforce investment systems under title I of the Workforce Investment Act cover?
§ 660.300 What definitions apply to the regulations for workforce investment systems under title 1 of WIA?

Authority: Sec. 506(c), Pub. L. 105–220; 20 USC 9276(c).

§ 660.100 What is the purpose of title I of the Workforce Investment Act of 1998?

The purpose of title I of the Workforce Investment Act of 1998 (hereafter referred to as WIA) is to provide workforce investment activities that increase the employment, retention and earnings of participants, and increase occupational skill attainment by participants, which will improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation's economy. These goals are achieved through the workforce investment system. (WIA sec. 106.)

§ 660.200 What do the regulations for workforce investment systems under title I of the Workforce Investment Act cover?

The regulations found in 20 CFR parts 660—671 set forth the regulatory requirements that are applicable to programs operated with funds provided under title I of WIA. This part 660 describes the purpose of that Act, explains the format of these regulations and sets forth definitions for terms that apply to each part. Part 661 contains regulations relating to Statewide and local governance of the workforce investment system. Part 662 describes the One-Stop system and the roles of One-Stop partners. Part 663 sets forth requirements applicable to WIA title I programs serving adults and dislocated workers. Part 664 sets forth requirements applicable to WIA title I programs serving youth. Part 665 contains regulations relating to Statewide activities. Part 666 describes the WIA title I performance accountability system. Part 667 sets forth the administrative requirements applicable to programs funded under WIA title I. Parts 668 and 669 contain the particular requirements applicable to programs serving Indians and Native Americans and Migrant and Seasonal Farmworkers, respectively. Parts 670 and 671 describe the particular requirements applicable to the Job Corps and other national programs, respectively.

§ 660.300 What definitions apply to the regulations for workforce investment systems under title I of WIA?

In addition to the definitions set forth at WIA sec. 101, the following definitions apply to the regulations set forth in 20 CFR parts 660—671:

Department or DOL means the U.S. Department of Labor, including its agencies and organizational units.

Designated region means a combination of local areas that are partly or completely in a single labor market area, economic development region, or other appropriate contiguous subarea of a State, that is designated by the State under WIA section 116(c), or a similar interstate region that is designated by two or more States under WIA section 116(c)(4).

Employment and training activity means a workforce investment activity that is carried out for an adult or dislocated worker.

EEO data means data on race and ethnicity, age, sex, and disability required by regulations implementing sec. 188 of WIA governing nondiscrimination.

ETA means the Employment and Training Administration of the U.S. Department of Labor.

Grant means an award of WIA financial assistance by the U.S. Department of Labor to an eligible WIA recipient.

Grantee means the direct recipient of grant funds from the Department of Labor. A grantee may also be referred to as a recipient.

Literacy means an individual's ability to read, write, and speak in English, and to compute, and solve problems, at levels of proficiency necessary to function on the job, in the family of the individual, and in society.

Local Board means a local workforce investment board established under WIA sec. 117, to set policy for the local workforce investment system.

Outlying area means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Participant means an individual who has registered under 20 CFR 663.105 or 20 CFR 664.215 and has been determined to be eligible to participate in and who is receiving services (except for follow up services) under a program authorized by WIA title I. Participation commences on the first day, following determination of eligibility, on which the individual begins receiving core, intensive, training or other services provided under WIA title I.

Recipient means an entity to which a WIA grant is awarded directly from the Department of Labor to carry out a program under title I of WIA. The State is the recipient of funds awarded under WIA secs. 127(b)(1)(C)(i)(II), 132(b)(1)(B) and 132(b)(2)(B).

Register means the process for collecting information to determine an individual's eligibility for services under WIA title I. Individuals may be registered in a variety ways, as described in 20 CFR 663.105 and 20 CFR 664.215.

Secretary means the Secretary of the U.S. Department of Labor.

Self certification means an individual's signed attestation that the information he/she submits to demonstrate eligibility for a program under title I of WIA is true and accurate.

State Board means a State workforce investment board established under WIA sec. 111.

State means each of the several States of the United States, the District of Columbia and the Commonwealth of Puerto Rico. The term ''State'' does not include outlying areas.

Subrecipient means an entity to which a subgrant is awarded and which is accountable to the recipient (or higher tier subrecipient) for the use of the funds provided.

Vendor means an entity responsible for providing generally required goods or services to be used in the WIA

program. These goods or services may be for the recipient's or subrecipient's own use or for the use of participants in the program.

Wagner-Peyser Act means the Act of June 6, 1933, as amended, codified at 29 U.S.C. 49 *et seq.*

Workforce investment activities mean the array of activities permitted under title I of WIA, which include employment and training activities for adults and dislocated workers, as described in WIA section 134, and youth activities, as described in WIA section 129.

Youth activity means a workforce investment activity that is carried out for youth.

PART 661—STATEWIDE AND LOCAL GOVERNANCE OF THE WORKFORCE INVESTMENT SYSTEM UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart A—General Governance Provisions

§ 661.100 What is the workforce investment system?
§ 661.110 What is the role of the Department of Labor as the Federal governmental partner in the governance of the workforce investment system?
§ 661.120 What are the roles of the local and State governmental partner in the governance of the workforce investment system?

Subpart B—State Governance Provisions

§ 661.200 What is the State Workforce Investment Board?
§ 661.205 What is the role of the State Board?
§ 661.210 Under what circumstances may the Governor select an alternative entity in place of the State Workforce Investment Board?
§ 661.220 What are the requirements for the submission of the State workforce investment plan?
§ 661.230 What are the requirements for modification of the State workforce investment plan?
§ 661.240 How do the unified planning requirements apply to the five-year strategic WIA and Wagner-Peyser plan and to other Department of Labor plans?
§ 661.250 What are the requirements for designation of local workforce investment areas?
§ 661.260 What are the requirements for automatic designation of workforce investment areas relating to units of local government with a population of 500,000 or more?
§ 661.270 What are the requirements for temporary and subsequent designation of workforce investment areas relating to areas that had been designated as service delivery areas under JTPA?
§ 661.280 What right does an entity have to appeal the Governor's decision rejecting a request for designation as a workforce investment area?
§ 661.290 Under what circumstances may States require Local Boards to take part in regional planning activities?

Subpart C—Local Governance Provisions

§ 661.300 What is the Local Workforce Investment Board?
§ 661.305 What is the role of the Local Workforce Investment Board?
§ 661.310 Under what limited conditions may a Local Board directly be a provider of core services, intensive services, or training services, or act as a One-Stop Operator?
§ 661.315 Who are the required members of the Local Workforce Investment Boards?
§ 661.320 Who must chair a Local Board?
§ 661.325 What criteria will be used to establish membership of the Local Board?
§ 661.330 Under what circumstances may the State use an alternative entity as the local workforce investment board?
§ 661.335 What is a youth council, and what is its relationship to the Local Board?
§ 661.340 What are the responsibilities of the youth council?
§ 661.345 What are the requirements for the submission of the local workforce investment plan?
§ 661.350 What are the contents of the local workforce investment plan?
§ 661.355 When must a local plan be modified?

Subpart D—Waivers and Work-Flex

§ 661.400 What is the purpose of the general statutory and regulatory waiver authority provided at section 189(i)(4) of the Workforce Investment Act?
§ 661.410 What provisions of WIA and the Wagner-Peyser Act may be waived, and what provisions may not be waived?
§ 661.420 Under what conditions may a Governor request and the Secretary approve a general waiver under section 189(i)(4)?
§ 661.430 Under what conditions may the Governor submit a workforce flexibility plan?
§ 661.440 What limitations apply to the State's Workforce Flexibility Plan authority under WIA?

Authority: Sec. 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c).

Subpart A—General Governance Provisions

§ 661.100 What is the workforce investment system?

Under title I of WIA, the workforce investment system provides the framework for delivery of workforce investment activities at the State and local levels to individuals who need those services, including job seekers, dislocated workers, youth, incumbent workers, new entrants to the workforce, veterans, persons with disabilities, and employers. Each State's Governor is required, in accordance with the requirements of this Part, to establish a State Board; to designate local workforce investment areas; and to oversee the creation of Local Boards and One-Stop service delivery systems in the State.

§ 661.110 What is the role of the Department of Labor as the Federal governmental partner in the governance of the workforce investment system?

(a) Successful governance of the workforce investment system will be achieved through cooperation and coordination of Federal, State and local governments.

(b) The Department of Labor sees as one of its primary roles providing leadership and guidance to support a system that meets the objectives of title I of WIA, and in which State and local partners have flexibility to design systems and deliver services in a manner designed to best achieve the goals of WIA based on their particular needs. These regulations provide the framework in which State and local officials can exercise such flexibility within the confines of the statutory requirements. Wherever possible, system features such as design options and categories of services are not narrowly defined, and are subject to State and local interpretation.

(c) The Secretary, in consultation with other Federal Agencies, as appropriate, may publish guidance on interpretations of statutory and regulatory provisions. State and local policies, interpretations, guidelines and definitions that are consistent with interpretations contained in such guidance will be considered to be consistent with the Act for purposes of § 661.120 of this subpart.

§ 661.120 What are the roles of the local and State governmental partner in the governance of the workforce investment system?

(a) Local Boards should establish policies, interpretations, guidelines and definitions to implement provisions of title I of WIA to the extent that such policies, interpretations, guidelines and definitions are not inconsistent with the Act or the regulations or with State policies.

(b) State Boards should establish policies, interpretations, guidelines and definitions to implement provisions of title I of WIA to the extent that such policies, interpretations, guidelines and definitions are not inconsistent with the Act and regulations.

Subpart B—State Governance Provisions

§ 661.200 What is the State Workforce Investment Board?

(a) The State Board is a board established by the Governor in accordance with the requirements of WIA section 111 and this section.

(b) The membership of the State Board must meet the requirements of WIA section 111(b). The State Board must contain two or more members representing the categories described in WIA sections 111(b)(1)(C)(iii)–(v), and special consideration must be given to chief executive officers of community colleges and community based organizations in the selection of members representing the entities identified in WIA section 111(b)(1)(C)(v).

(c) The Governor may appoint any other representatives or agency officials, such as agency officials responsible for economic development and juvenile justice programs in the State.

(d) Members who represent organizations, agencies or other entities must be individuals with optimum policy making authority within the entities they represent.

(e) A majority of members of the State Board must be representatives of business. Members who represent business must be individuals who are owners, chief executive officers, chief operating officers, or other individuals with optimum policy making or hiring authority, including members of Local Boards.

(f) The Governor must appoint the business representatives from among individuals who are nominated by State business organizations and business trade associations. The Governor must appoint the labor representatives from among individuals who are nominated by State labor federations.

(g) The Governor must select a chairperson of the State Board from the business representatives on the board.

(h) The Governor may establish terms of appointment or other conditions governing appointment or membership on the State Board.

(i) For the programs and activities carried out by one-stop partners, as described in WIA section 121(b) and 20 CFR 662.210, the State Board must include:

(1) The lead State agency officials with responsibility for such program, or

(2) In any case in which no lead State agency official has responsibility for such a program service, a representative in the State with expertise relating to such program, service or activity.

(j) The State Board must conduct its business in an open manner as required by WIA section 111(g), by making available to the public, on a regular basis through open meetings, information about the activities of the State Board, including information about the State Plan prior to submission of the plan, information about membership, and on request, minutes of formal meetings of the State Board. (WIA section 111)

§ 661.205 What is the role of the State Board?

The State Board must assist the Governor in the:

(a) Development of the State Plan;

(b) Development and continuous improvement of a Statewide system of activities that are funded under subtitle B of title I of WIA, or carried out through the One-Stop delivery system, including—

(1) Development of linkages in order to assure coordination and nonduplication among the programs and activities carried out by One-Stop partners, including, as necessary, addressing any impasse situations in the development of the local memorandum of understanding; and

(2) Review of local plans;

(c) Commenting at least once annually on the measures taken under section 113(b)(14) of the Carl D. Perkins Vocational and Technical Education Act;

(d) Designation of local workforce investment areas,

(e) Development of allocation formulas for the distribution of funds for adult employment and training activities and youth activities to local areas, as permitted under WIA sections 128(b)(3)(B) and 133(b)(3)(B);

(f) Development and continuous improvement of comprehensive State performance measures, including State adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the State, as required under WIA section 136(b);

(g) Preparation of the annual report to the Secretary described in WIA section 136(d);

(h) Development of the Statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act; and

(i) Development of an application for an incentive grant under WIA section 503. (WIA section 111(d).)

§ 661.210 Under what circumstances may the Governor select an alternative entity in place of the State Workforce Investment Board?

(a) The State may use any State entity that meets the requirements of WIA section 111(e) to perform the functions of the State Board.

(b) If the State uses an alternative entity, the State workforce investment plan must demonstrate that the alternative entity meets all three of the requirements of WIA section 111(e). Section 111(e) requires that such entity:

(1) Was in existence on December 31, 1997;

(2)(i) Was established under section 122 (relating to State Job Training Coordinating Councils) or title VII (relating to State Human Resource Investment Councils) of the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*), as in effect on December 31, 1997, or

(ii) Is substantially similar to the State Board described in WIA section 111(a), (b), and (c) and § 661.200; and

(3) Includes, at a minimum, two or more representatives of business in the State and two or more representatives of labor organizations in the State.

(c) If the alternative entity does not provide for representative membership of each of the categories of required State Board membership under WIA section 111(b), the State Plan must explain the manner in which the State will ensure an ongoing role for any such group in the workforce investment system.

(d) If the membership structure of the alternative entity is significantly changed after December 31, 1997, the entity will no longer be eligible to perform the functions of the State Board. In such case, the Governor must establish a new State Board which meets all of the criteria of WIA section 111(b). A significant change in the membership structure does not mean the filling of a vacancy on the alternative entity, but does include any change in the organization of the alternative entity or in the categories of entities represented on the alternative entity which requires a change to the alternative entity's charter or a similar document that defines the formal organization of the alternative entity.

(e) In 20 CFR parts 660 through 671, all references to the State Board also apply to an alternative entity used by a State.

§ 661.220 What are the requirements for the submission of the State Workforce Investment Plan?

(a) The Governor of each State must submit a State Workforce Investment Plan (State Plan) in order to be eligible to receive funding under title I of WIA and the Wagner-Peyser Act. The State Plan must outline the State's five year strategy for the workforce investment system.

(b) The State Plan must be submitted in accordance with planning guidelines issued by the Secretary of Labor. The planning guidelines set forth the information necessary to document the State's vision, goals, strategies, policies and measures for the workforce investment system (that were arrived at through the collaboration of the Governor, chief elected officials, business and other parties), as well as the information required to demonstrate compliance with WIA, and the information detailed by WIA and these regulations and the Wagner-Peyser Act and the Wagner-Peyser regulations at 20 CFR part 652.

(c) The State Plan must contain a description of the State's performance accountability system, and the State performance measures in accordance with the requirements of WIA section 136 and 20 CFR part 666.

(d) The State must provide an opportunity for public comment on and input into the development of the State Plan prior to its submission. The opportunity for public comment must include an opportunity for comment by representatives of business, representatives of labor organizations, and chief elected official(s) and must be consistent with the requirement, at WIA section 111(g), that the State Board makes information regarding the State Plan and other State Board activities available to the public through regular open meetings. The State Plan must describe the State's process and timeline for ensuring a meaningful opportunity for public comment.

(e) The Secretary reviews completed plans and must approve all plans within ninety days of their submission, unless the Secretary determines in writing that:

(1) The plan is inconsistent with the provisions of title I of WIA or these regulations. For example, a finding of inconsistency would be made if the Secretary and the Governor have not reached agreement on the adjusted levels of performance under WIA section 136(b)(3)(A), or there is not an effective strategy in place to ensure development of a fully operational One-Stop delivery system in the State; or

(2) The portion of the plan describing the detailed Wagner-Peyser plan does not satisfy the criteria for approval of such plans as provided in section 8(d) of the Wagner-Peyser Act or the Wagner-Peyser regulations at 20 CFR part 652.

§ 661.230 What are the requirements for modification of the State workforce investment plan?

(a) The State may submit a modification of its workforce investment plan at any time during the five-year life of the plan.

(b) Modifications are required when:

(1) Changes in Federal or State law or policy substantially change the assumptions upon which the plan is based.

(2) There are changes in the Statewide vision, strategies, policies, performance indicators, the methodology used to determine local allocation of funds, reorganizations which change the working relationship with system employees, changes in organizational responsibilities, changes to the membership structure of the State Board or alternative entity and similar substantial changes to the State's workforce investment system.

(3) The State has failed to meet performance goals, and must adjust service strategies.

(c) Modifications are required in accordance with the Wagner-Peyser provisions at 20 CFR 652.210.

(d) Modifications to the State Plan are subject to the same public review and comment requirements that apply to the development of the original State Plan.

(e) State Plan modifications will be approved by the Secretary based on the approval standard applicable to the original State Plan under § 661.220(e).

§ 661.240 How do the unified planning requirements apply to the five-year strategic WIA and Wagner-Peyser plan and to other Department of Labor plans?

(a) A State may submit to the Secretary a unified plan for any of the programs or activities described in WIA section 501(b)(2). This includes the following DOL programs and activities:

(1) The five-year strategic WIA and Wagner-Peyser plan;

(2) Trade adjustment assistance activities and NAFTA—TAA;

(3) Veterans' programs under 38 U.S.C. Chapter 41;

(4) Programs authorized under State unemployment compensation laws;

(5) Welfare-to-Work (WtW) programs; and

(6) Senior Community Service Employment Programs under title V of the Older Americans Act.

(b) For purposes of paragraph (a) of this section, a State may submit, as part of the unified plan, any plan, application form or any other similar document, that is required as a condition for the approval of Federal funding under the applicable program. These plans include such things as the WIA plan, or the WtW plan. They do not include jointly executed funding instruments, such as grant agreements, or Governor/Secretary Agreements or items such as corrective actions plans.

(c) A State which submits a unified plan under paragraph (a) of this section will not be required to submit additional planning materials as a condition for approval to receive Federal funds.

(d) Each portion of a unified plan submitted under paragraph (a) of this section is subject to the particular requirements of Federal law authorizing the program. All grantees are still subject to such things as reporting and record-keeping requirements, corrective action plan requirements and other generally applicable requirements.

(e) A unified plan must contain the information required by WIA section 501(c) and will be approved in accordance with the requirements of WIA section 501(d).

§ 661.250 What are the requirements for designation of local workforce investment areas?

(a) The Governor must designate local workforce investment areas in order for the State to receive funding under title I of WIA.

(b) The Governor must take into consideration the factors described in WIA section 116(a)(1)(B) in making designations of local areas. Such designation must be made in consultation with the State Board, and after consultation with chief elected officials. The Governor must also consider comments received through the public comment process described in the State workforce investment plan under § 661.220(d).

(c) The Governor may approve a request for designation as a workforce investment area from any unit of general local government, including a combination of such units, if the State Board determines that the area meets the requirements of WIA section 116(a)(1)(B) and recommends designation. (WIA section 116.)

§ 661.260 What are the requirements for automatic designation of workforce investment areas relating to units of local government with a population of 500,000 or more?

The requirements for automatic designation relating to units of local government with a population of 500,000 or more and to rural concentrated employment programs are contained in WIA section 116(a)(2).

§ 661.270 What are the requirements for temporary and subsequent designation of workforce investment areas relating to areas that had been designated as service delivery areas under JTPA?

The requirements for temporary and subsequent designation relating to areas that had been designated as service

delivery areas under JTPA are contained in WIA section 116(a)(3).

§ 661.280 What right does an entity have to appeal the Governor's decision rejecting a request for designation as a workforce investment area?

(a) A unit of local government (or combination of units) or a rural concentrated employment program grant recipient (as described at WIA section 116(a)(2)(B), which has requested but has been denied its request for designation as a workforce investment area under §§ 661.260–661.270, may appeal the decision to the State Board, in accordance with appeal procedures established in the State Plan.

(b) If a decision on the appeal is not rendered in a timely manner or if the appeal to the State Board does not result in designation, the entity may request review by the Secretary of Labor, under the procedures set forth at 20 CFR 667.640(a).

(c) The Secretary may require that the area be designated as a workforce investment area, if the Secretary determines that:

(1) The entity was not accorded procedural rights under the State appeals process; or

(2) The area meets the automatic designation requirements at WIA section 116(a)(2) or the temporary and subsequent designation requirements at WIA section 116(a)(3), as appropriate.

§ 661.290 Under what circumstances may States require Local Boards to take part in regional planning activities?

(a) The State may require Local Boards within a designated region (as defined at 20 CFR 660.300) to:

(1) Participate in a regional planning process that results in regional performance measures for workforce investment activities under title I of WIA. Regions that meet or exceed the regional performance measures may receive regional incentive grants;

(2) Share, where feasible, employment and other types of information that will assist in improving the performance of all local areas in the designated region on local performance measures; and

(3) Coordinate the provision of WIA title I services, including supportive services such as transportation, across the boundaries of local areas within the designated region.

(b) Two or more States may designate a labor market area, economic development region, or other appropriate contiguous subarea of the States as an interstate region. In such cases, the States may jointly exercise the State's functions described in this section.

(c) Designation of intrastate regions and interstate regions and their corresponding performance measures must be described in the respective State Plan(s). For interstate regions, the roles of the respective governors, State Boards and Local Boards must be described in the respective State Plans.

(d) Unless agreed to by all affected chief elected officials and the Governor, these regional planning activities may not substitute for or replace the requirements applicable to each local area under other provisions of the WIA. (WIA section 116(a).)

Subpart C—Local Governance Provisions

§ 661.300 What is the Local Workforce Investment Board?

(a) The Local Workforce Investment Board (Local Board) is appointed by the chief elected official in each local area in accordance with State criteria established under WIA section 117(b), and is certified by the Governor every two years, in accordance with WIA section 117(c)(2).

(b) In partnership with the chief elected official(s), the Local Board sets policy for the portion of the Statewide workforce investment system within the local area.

(c) The Local Board and the chief elected official(s) may enter into an agreement that describes the respective roles and responsibilities of the parties.

(d) The Local Board, in partnership with the chief elected official, develops the local workforce investment plan and performs the functions described in WIA section 117(d). (WIA section 117 (d).)

(e) In the case in which a local area includes more than one unit of general local government in accordance with WIA section 117 (c)(1)(B), the chief elected officials of such units may execute an agreement to describe their responsibilities for carrying out the roles and responsibilities. If, after a reasonable effort, the chief elected officials are unable to reach agreement, the Governor may appoint the members of the local board from individuals nominated or recommended as specified in WIA section 117(b).

(f) In the case in which the State Plan indicates that the State will be treated as a local area under WIA title I, the Governor may designate the State Board to carry out any of the roles of the Local Board.

§ 661.305 What is the role of the Local Workforce Investment Board?

(a) WIA section 117(d) specifies that the Local Board is responsible for:

(1) Developing the five-year local workforce investment plan (Local Plan) and conducting oversight of the One-Stop system, youth activities and employment and training activities under title I of WIA, in partnership with the chief elected official;

(2) Selecting One-Stop operators with the agreement of the chief elected official;

(3) Selecting eligible youth service providers based on the recommendations of the youth council, and identifying eligible providers of adult and dislocated worker intensive services and training services, and maintaining a list of eligible providers with performance and cost information, as required in 20 CFR part 663, subpart E;

(4) Developing a budget for the purpose of carrying out the duties of the Local Board, subject to the approval of the chief elected official;

(5) Negotiating and reaching agreement on local performance measures with the chief elected official and the Governor;

(6) Assisting the Governor in developing the Statewide employment statistics system under the Wagner-Peyser Act;

(7) Coordinating workforce investment activities with economic development strategies and developing employer linkages; and

(8) Promoting private sector involvement in the Statewide workforce investment system through effective connecting, brokering, and coaching activities through intermediaries such as the One-Stop operator in the local area or through other organizations, to assist employers in meeting hiring needs.

(b) The Local Board, in cooperation with the chief elected official, appoints a youth council as a subgroup of the Local Board and coordinates workforce and youth plans and activities with the youth council, in accordance with WIA sec. 117(h) and § 661.335.

(c) Local Boards which are part of a State designated region for regional planning must carry out the regional planning responsibilities required by the State in accordance with WIA section 116(c) and § 661.290.

(d) The Local Board must conduct business in an open manner as required by WIA section 117(e), by making available to the public, on a regular basis through open meetings, information about the activities of the Local Board, including information about the local plan before submission of the plan, and about membership, the designation and certification of One-Stop operators, and the award of grants or contracts to eligible providers of

youth activities, and on request, minutes of formal meetings of the Local Board. (WIA sec. 117.)

§ 661.310 Under what limited conditions may a Local Board directly be a provider of core services, intensive services, or training services, or act as a One-Stop Operator?

(a) A Local Board may not directly provide core services, or intensive services, or be designated or certified as a One-Stop operator, unless agreed to by the chief elected official and the Governor.

(b) A Local Board is prohibited from providing training services, unless the Governor grants a waiver in accordance with the provisions in WIA section 117(f)(1). The waiver shall apply for not more than one year and may be renewed for not more than one additional year.

(c) The restrictions on the provision of core, intensive, and training services by the Local Board, and designation or certification as One-Stop operator, also apply to staff of the Local Board. (WIA sec. 117(f)(1) and (f)(2).)

§ 661.315 Who are the required members of the Local Workforce Investment Boards?

(a) The membership of Local Board must be selected in accordance with criteria established under WIA section 117(b)(1) and must meet the requirements of WIA section 117(b)(2). The Local Board must contain two or more members representing the categories described in WIA section 117(b)(2)(A)(ii)–(v), and special consideration must be given to the entities identified in WIA section 117(b)(2)(A)(ii), (iv) and (v) in the selection of members representing those categories. The Local Board must contain at least one member representing each One-Stop partner.

(b) The membership of Local Boards may include individuals or representatives of other appropriate entities, including entities representing individuals with multiple barriers to employment and other special populations, as determined by the chief elected official.

(c) Members who represent organizations, agencies or other entities must be individuals with optimum policy making authority within the entities they represent.

(d) A majority of the members of the Local Board must be representatives of business in the local area. Members representing business must be individuals who are owners, chief executive officers, chief operating officers, or other individuals with optimum policymaking or hiring authority. Business representatives serving on Local Boards may also serve on the State Board.

(e) Chief elected officials must appoint the business representatives from among individuals who are nominated by local business organizations and business trade associations. Chief elected officials must appoint the labor representatives from among individuals who are nominated by local labor federations (or, for a local area in which no employees are represented by such organizations, other representatives of employees). (WIA sec. 117(b).)

§ 661.320 Who must chair a Local Board?

The Local Board must elect a chairperson from among the business representatives on the board. (WIA sec. 117(b)(5).)

§ 661.325 What criteria will be used to establish membership of the Local Board?

The Local Board is appointed by the chief elected official(s) in the local area in accordance with State criteria established under WIA section 117(b), and is certified by the Governor every two years, in accordance with WIA section 117(c)(2). The criteria for certification must be described in the State Plan. (WIA sec. 117(c).)

§ 661.330 Under what circumstances may the State use an alternative entity as the local workforce investment board?

(a) The State may use any local entity that meets the requirements of WIA section 117(i) to perform the functions of the Local Board. WIA section 117(i) requires that such entity:

(1) Was established to serve the local area (or the service delivery area that most closely corresponds to the local area);

(2) Was in existence on December 31, 1997;

(3)(i) Is a Private Industry Council established under to section 102 of the Job Training Partnership Act, as in effect on December 31, 1997; or

(ii) Is substantially similar to the Local Board described in WIA section 117 (a), (b), and (c) and (h)(1) and (2); and

(4) Includes, at a minimum, two or more representatives of business in the local area and two or more representatives of labor organizations nominated by local labor federations or employees in the local area.

(b)(1) If the Governor certifies an alternative entity to perform the functions of the Local Board; the State workforce investment plan must demonstrate that the alternative entity meets the requirements of WIA section 117(i), set forth in paragraph (a) of this section.

(2) If the alternative entity does not provide for representative membership of each of the categories of required Local Board membership under WIA section 117(b), the local workforce investment plan must explain the manner in which the Local Board will ensure an ongoing role for any such group in the local workforce investment system.

(c) If the membership structure of an alternative entity is significantly changed after December 31, 1997, the entity will no longer be eligible to perform the functions of the Local Board. In such case, the chief elected official(s) must establish a new Local Board which meets all of the criteria of WIA section 117(a), (b), and (c) and (h)(1) and (2). A significant change in the membership structure does not mean the filling of a vacancy on the alternative entity, but does include any change in the organization of the alternative entity or in the categories of entities represented on the alternative entity that requires a change to the alternative entity's charter or a similar document that defines the formal organization of the alternative entity.

(d) In these regulations, all references to the Local Board must be deemed to also apply to an alternative entity used by a local area. (WIA sec. 117(i).)

§ 661.335 What is a youth council, and what is its relationship to the Local Board?

(a) A youth council must be established as a subgroup within each Local Board.

(b) The membership of each youth council must include:

(1) Members of the Local Board, such as educators, employers, and representatives of human service agencies, who have special interest or expertise in youth policy;

(2) Members who represent service agencies, such as juvenile justice and local law enforcement agencies;

(3) Members who represent local public housing authorities;

(4) Parents of eligible youth seeking assistance under subtitle B of title I of WIA;

(5) Individuals, including former participants, and members who represent organizations, that have experience relating to youth activities; and

(6) Members who represent the Job Corps, if a Job Corps Center is located in the local area represented by the council.

(c) Youth councils may include other individuals, who the chair of the Local Board, in cooperation with the chief elected official, determines to be appropriate.

(d) Members of the youth council who are not members of the Local Board must be voting members of the youth council and nonvoting members of the Local Board.

§ 661.340 What are the responsibilities of the youth council?

The youth council is responsible for:

(a) Coordinating youth activities in a local area;

(b) Developing portions of the local plan related to eligible youth, as determined by the chairperson of the Local Board;

(c) Recommending eligible youth service providers in accordance with WIA section 123, subject to the approval of the Local Board;

(d) Conducting oversight with respect to eligible providers of youth activities in the local area, subject to the approval of the Local Board; and

(e) Carrying out other duties, as authorized by the chairperson of the Local Board, such as establishing linkages with educational agencies and other youth entities.

§ 661.345 What are the requirements for the submission of the local workforce investment plan?

(a) WIA section 118 requires that each Local Board, in partnership with the appropriate chief elected officials, develops and submits a comprehensive five-year plan to the Governor which identifies and describes certain policies, procedures and local activities that are carried out in the local area, and that is consistent with the State Plan.

(b) The Local Board must provide an opportunity for public comment on and input into the development of the local workforce investment plan prior to its submission, and the opportunity for public comment on the local plan must:

(1) Make copies of the proposed local plan available to the public (through such means as public hearings and local news media);

(2) Include an opportunity for comment by members of the Local Board and members of the public, including representatives of business and labor organizations;

(3) Provide at least a thirty (30) day period for comment, beginning on the date on which the proposed plan is made available, prior to its submission to the Governor; and

(4) Be consistent with the requirement, in WIA section 117(e), that the Local Board make information about the plan available to the public on a regular basis through open meetings.

(c) The Local Board must submit any comments that express disagreement with the plan to the Governor along with the plan.

§ 661.350 What are the contents of the local workforce investment plan?

(a) The local workforce investment plan must meet the requirements of WIA section 118(b). The plan must include:

(1) An identification of the workforce investment needs of businesses, job-seekers, and workers in the local area;

(2) An identification of current and projected employment opportunities and job skills necessary to obtain such opportunities;

(3) A description of the One-Stop delivery system to be established or designated in the local area, including:

(i) How the Local Board will ensure continuous improvement of eligible providers of services and ensure that such providers meet the employment needs of local employers and participants; and

(ii) A copy of the local memorandum(s) of understanding between the Local Board and each of the One-Stop partners concerning the operation of the local One-Stop delivery system;

(4) A description of the local levels of performance negotiated with the Governor and the chief elected official(s) to be used by the Local Board for measuring the performance of the local fiscal agent (where appropriate), eligible providers, and the local One-Stop delivery system;

(5) A description and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area, including a description of the local ITA system and the procedures for ensuring that exceptions to the use of ITA's, if any, are justified under WIA section 134(d)(4)(G)(ii) and 20 CFR 663.430;

(6) A description of how the Local Board will coordinate local activities with Statewide rapid response activities;

(7) A description and assessment of the type and availability of youth activities in the local area, including an identification of successful providers of such activities;

(8) A description of the process used by the Local Board to provide opportunity for public comment, including comment by representatives of business and labor organizations, and input into the development of the local plan, prior to the submission of the plan;

(9) An identification of the fiscal agent, or entity responsible for the disbursal of grant funds;

(10) A description of the competitive process to be used to award grants and contracts for activities carried out under this subtitle I of WIA, including the process to be used to procure training services that are made as exceptions to the Individual Training Account process (WIA sec. 134(d)(4)(G)),

(11) A description of the criteria to be used by the Governor and the Local Board, under 20 CFR 663.600, to determine whether funds allocated to a local area for adult employment and training activities under WIA sections 133(b)(2)(A) or (3) are limited, and the process by which any priority will be applied by the One-Stop operator;

(12) In cases where an alternate entity functions as the Local Board, the information required at § 661.330(b), and

(13) Such other information as the Governor may require.

(b) The Governor must review completed plans and must approve all such plans within ninety days of their submission, unless the Governor determines in writing that:

(1) There are deficiencies identified in local workforce investment activities carried out under this subtitle that have not been sufficiently addressed; or

(2) The plan does not comply with title I of WIA and these regulations, including the required consultations and public comment provisions.

(c) In cases where the State is a single local area:

(1) The Secretary performs the roles assigned to the Governor as they relate to local planning activities.

(2) The Secretary issues planning guidance for such States.

(3) The requirements found in WIA and in these regulations for consultation with chief elected officials apply to the development of State and local plans and to the development and operation of the One-Stop delivery system.

§ 661.355 When must a local plan be modified?

The Governor must establish procedures governing the modification of local plans. Situations in which modifications may be required by the Governor include significant changes in local economic conditions, changes in the financing available to support WIA title I and partner-provided WIA services, changes to the Local Board structure, or a need to revise strategies to meet performance goals.

Subpart D—Waivers and Work-Flex

§ 661.400 What is the purpose of the General Statutory and Regulatory Waiver Authority provided at section 189(i)(4) of the Workforce Investment Act?

(a) The purpose of the general statutory and regulatory waiver authority is to provide flexibility to States and local areas and enhance their

ability to improve the statewide workforce investment system.

(b) A waiver may be requested to address impediments to the implementation of a strategic plan, including the continuous improvement strategy, consistent with the key reform principles of WIA. These key reform principles include:

(1) Streamlining services and information to participants through a One-Stop delivery system;

(2) Empowering individuals to obtain needed services and information to enhance their employment opportunities;

(3) Ensuring universal access to core employment-related services;

(4) Increasing accountability of States, localities and training providers for performance outcomes;

(5) Establishing a stronger role for Local Boards and the private sector;

(6) Providing increased State and local flexibility to implement innovative and comprehensive workforce investment systems; and

(7) Improving youth programs through services which emphasize academic and occupational learning.

§ 661.410 What provisions of WIA and the Wagner-Peyser Act may be waived, and what provisions may not be waived?

(a) The Secretary may waive any of the statutory or regulatory requirements of subtitles B and E of title I of WIA, except for requirements relating to:

(1) Wage and labor standards;

(2) Non-displacement protections;

(3) Worker rights;

(4) Participation and protection of workers and participants;

(5) Grievance procedures and judicial review;

(6) Nondiscrimination;

(7) Allocation of funds to local areas;

(8) Eligibility of providers or participants;

(9) The establishment and functions of local areas and local boards; and

(10) Procedures for review and approval of State and Local plans; and

(b) The Secretary may waive any of the statutory or regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g—49i) except for requirements relating to:

(1) The provision of services to unemployment insurance claimants and veterans; and

(2) Universal access to the basic labor exchange services without cost to job seekers.

(c) The Secretary does not intend to waive any of the statutory or regulatory provisions essential to the key reform principles embodied in the Workforce Investment Act, described in § 661.400, except in extremely unusual circumstances where the provision can be demonstrated as impeding reform. (WIA sec. 189(i).)

§ 661.420 Under what conditions may a Governor request, and the Secretary approve, a general waiver of statutory or regulatory requirements under section 189(i)(4)?

(a) A Governor may request a general waiver in consultation with appropriate chief elected officials:

(1) By submitting a waiver plan which may accompany the State's WIA 5-year strategic Plan; or

(2) After a State's WIA Plan is approved, by directly submitting a waiver plan.

(b) A Governor's waiver request may seek waivers for the entire State or for one or more local areas.

(c) A Governor requesting a general waiver must submit to the Secretary a plan to improve the Statewide workforce investment system that:

(1) Identifies the statutory or regulatory requirements for which a waiver is requested and the goals that the State or local area, as appropriate, intends to achieve as a result of the waiver and how those goals relate to the Strategic Plan goals;

(2) Describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(3) Describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(4) Describes the individuals affected by the waiver; and

(5) Describes the processes used to:

(i) Monitor the progress in implementing the waiver;

(ii) Provide notice to any Local Board affected by the waiver; and

(iii) Provide any Local Board affected by the waiver an opportunity to comment on the request.

(d) The Secretary issues a decision on a waiver request within 90 days after the receipt of the original waiver request.

(e) The Secretary will approve a waiver request if and only to the extent that:

(1) The Secretary determines that the requirements for which a waiver is requested impede the ability of either the State or local area to implement the State's plan to improve the Statewide workforce investment system;

(2) The Secretary determines that the waiver plan meets all of the requirements of WIA section 189(i)(4) and §§ 661.400–661.420 of this subpart; and

(3) The State has executed a memorandum of understanding with the Secretary requiring the State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

(g) The Secretary will issue guidelines under which the States may request general waivers of WIA and Wagner-Peyser requirements. (WIA sec. 189(i).)

§ 661.430 Under what conditions may the Governor submit a Workforce Flexibility Plan?

(a) A State may submit to the Secretary, and the Secretary may approve, a workforce flexibility (work-flex) plan under which the State is authorized to waive, in accordance with the plan:

(1) Any of the statutory or regulatory requirements under title I of WIA applicable to local areas, if the local area requests the waiver in a waiver application, except for:

(i) Requirements relating to the basic purposes of title I of WIA;

(ii) Wage and labor standards;

(iii) Grievance procedures and judicial review;

(iv) Nondiscrimination;

(v) Eligibility of participants;

(vi) Allocation of funds to local areas;

(vii) Establishment and functions of local areas and local boards;

(viii) Review and approval of local plans;

(ix) Worker rights, participation, and protection; and

(x) Any of the statutory provisions essential to the key reform principles embodied in the Workforce Investment Act, described in § 661.400.

(2) Any of the statutory or regulatory requirements applicable to the State under sec. 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g–49i), except for requirements relating to:

(i) The provision of services to unemployment insurance claimants and veterans; and

(ii) Universal access to basic labor exchange services without cost to job seekers; and

(3) Any of the statutory or regulatory requirements under the Older Americans Act of 1965 (OAA) (42 U.S.C. 3001 *et seq.*), applicable to State agencies on aging with respect to activities carried out using funds allotted under OAA section 506(a)(3) (42 U.S.C. 3056d(a)(3)), except for requirements relating to:

(i) The basic purposes of OAA;

(ii) Wage and labor standards;

(iii) Eligibility of participants in the activities; and

(iv) Standards for agreements.

(b) A State's workforce flexibility plan may accompany the State's five-year

Strategic Plan or may be submitted separately. If it is submitted separately, the workforce flexibility plan must identify related provisions in the State's five-year Strategic Plan.

(c) A workforce flexibility plan submitted under paragraph (a) of this section must include descriptions of:

(1) The process by which local areas in the State may submit and obtain State approval of applications for waivers;

(2) The statutory and regulatory requirements of title I of WIA that are likely to be waived by the State under the workforce flexibility plan;

(3) The statutory and regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act that are proposed for waiver, if any;

(4) The statutory and regulatory requirements of the Older Americans Act of 1965 that are proposed for waiver, if any;

(5) The outcomes to be achieved by the waivers described in paragraphs (c)(1) to (4) of this section # including, where appropriate, revisions to adjusted levels of performance included in the State or local plan under title I of WIA; and

(6) The measures to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

(d) The Secretary may approve a workforce flexibility plan for a period of up to five years.

(e) Before submitting a workforce flexibility plan to the Secretary for approval, the State must provide adequate notice and a reasonable opportunity for comment on the proposed waiver requests under the workforce flexibility plan to all interested parties and to the general public.

(f) The Secretary will issue guidelines under which States may request designation as a work-flex State.

§ 661.440 What limitations apply to the State's Workforce Flexibility Plan authority under WIA?

(a)(1) Under work-flex waiver authority a State must not waive the WIA, Wagner-Peyser or Older Americans Act requirements which are excepted from the work-flex waiver authority and described in § 661.430(a).

(2) Requests to waive statutory and regulatory requirements of title I of WIA applicable at the State level may not be granted under work-flex waiver authority granted to a State. Such requests may only be granted by the Secretary under the general waiver authority described at §§ 661.410–661.420 of this subpart.

(b) As required in § 661.430(c)(5), States must address the outcomes to result from work-flex waivers as part of its workforce flexibility plan. Once approved, a State's work-flex designation is conditioned on the State demonstrating it has met the agreed-upon outcomes contained in its workforce flexibility plan.

PART 662—DESCRIPTION OF THE ONE-STOP SYSTEM UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart A—General Description of the One-Stop Delivery System

Sec.

662.100 What is the One-Stop delivery system?

Subpart B—One-Stop Partners and the Responsibilities of Partners

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662.210 What other entities may serve as One-Stop partners?
662.220 What entity serves as the One-Stop partner for a particular program in the local area?
662.230 What are the responsibilities of the required One-Stop partners?
662.240 What are a program's applicable core services?
662.250 Where and to what extent must required One-Stop partners make core services available?
662.260 What services, in addition to the applicable core services, are to be provided by One-Stop partners through the One-Stop delivery system?
662.270 How are the costs of providing services through the One-Stop delivery system and the operating costs of the system to be funded?
662.280 Does title I require One-Stop partners to use their funds for individuals who are not eligible for the partner's program or for services that are not authorized under the partner's program?

Subpart C—Memorandum of Understanding for the One-Stop Delivery System

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Authority: Section 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c).

Subpart A—General Description of One-Stop Delivery System

§ 662.100 What is the One-Stop delivery system?

(a) In general, the One-Stop delivery system is a system under which entities responsible for administering separate workforce investment, educational, and other human resource programs and funding streams (referred to as One-Stop partners) collaborate to create a seamless system of service delivery that will enhance access to the programs' services and improve long-term employment outcomes for individuals receiving assistance.

(b) Title I of WIA assigns responsibilities at the local, State and Federal level to ensure the creation and maintenance of a One-Stop delivery system that enhances the range and quality of workforce development services that are accessible to individuals seeking assistance.

(c) The system must include at least one comprehensive physical center in each local area that must provide the core services specified in WIA section 134(d)(2), and must provide access to other programs and activities carried out by the One-Stop partners.

(d) While each local area must have at least one comprehensive center (and may have additional comprehensive centers), WIA section 134(c) allows for arrangements to supplement the center. These arrangements may include:

(1) A network of affiliated sites that can provide one or more partners' programs, services and activities at each site;

(2) A network of One-Stop partners through which each partner provides services that are linked, physically or technologically, to an affiliated site that assures individuals are provided information on the availability of core services in the local area; and

(3) Specialized centers that address specific needs, such as those of dislocated workers.

(e) The design of the local area's One-Stop delivery system, including the number of comprehensive centers and the supplementary arrangements, must be described in the local plan and be consistent with the memorandum of understanding executed with the One-Stop partners.

Subpart B—One-Stop Partners and the Responsibilities of Partners

§ 662.200 Who are the required One-Stop partners?

(a) WIA section 121(b)(1) identifies the entities that are required partners in the local One-Stop systems.

(b) The required partners are the entities that carry out:

(1) Programs authorized under title I of WIA, serving:

(i) Adults;

(ii) Dislocated workers;

(iii) Youth;

(iv) Job Corps;

(v) Native American programs;

(vi) Migrant and seasonal farmworker programs; and

(vii) Veterans' workforce programs; (WIA sec. 121(b)(1)(B)(i).)

(2) Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 *et seq.*); (WIA sec. 121(b)(1)(B)(ii).)

(3) Adult education and literacy activities authorized under title II of WIA; (WIA sec. 121(b)(1)(B)(iii).)

(4) Vocational rehabilitation programs authorized under parts A and B of title I of the Rehabilitation Act (29 U.S.C. 720 *et seq.*); (WIA sec. 121(b)(1)(B)(iv).)

(5) Welfare-to-work programs authorized under sec. 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5) *et seq.*); (WIA sec. 121(b)(1)(B)(v).)

(6) Senior community service employment activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 *et seq.*); (WIA sec. 121(b)(1)(B)(vi).)

(7) Postsecondary vocational education activities under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 *et seq.*); (WIA sec. 121(b)(1)(B)(vii).)

(8) Trade Adjustment Assistance and NAFTA Transitional Adjustment Assistance activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 *et seq.*); (WIA sec. 121(b)(1)(B)(viii).)

(9) Activities authorized under chapter 41 of title 38, U.S.C. (local veterans' employment representatives and disabled veterans outreach programs); (WIA sec. 121(b)(1)(B)(ix).)

(10) Employment and training activities carried out under the Community Services Block Grant (42 U.S.C. 9901 *et seq.*); (WIA sec. 121(b)(1)(B)(x).)

(11) Employment and training activities carried out by the Department of Housing and Urban Development; (WIA sec. 121(b)(1)(B)(xi).) and

(12) Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law); (WIA sec. 121(b)(1)(B)(xii).)

§ 662.210 What other entities may serve as One-Stop partners?

(a) WIA provides that other entities that carry out a human resource program, including Federal, State, or local programs and programs in the private sector may serve as additional partners in the One-Stop system if the Local Board and chief elected official(s) approve the entity's participation.

(b) Additional partners may include:

(1) TANF programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*);

(2) Employment and training programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

(3) Work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(4) Programs authorized under the National and Community Service Act of 1990 (42 U.S.C. 12501 *et seq.*); and

(5) other appropriate programs, including programs related to transportation and housing. (WIA section 121(b)(2).)

§ 662.220 What entity serves as the One-Stop partner for a particular program in the local area?

(a) The ''entity'' that carries out the program and activities listed in §§ 662.200 and 662.210 of this subpart, and, therefore, serves as the One-Stop partner is the grant recipient, administrative entity or organization responsible for administering the funds of the specified program in the local area. The term ''entity'' does not include the service providers that contract with or are subrecipients of the local administrative entity. For programs that do not include local administrative entities, the responsible State Agency should be the partner. Specific entities for specific programs are identified in paragraph (b) of this section.

(b)(1) For title II of WIA, the entity that carries out the program for the purposes of paragraph (a) of this section is the State eligible entity. The State eligible entity may designate an eligible provider as the ''entity'' for this purpose;

(2) For title I, Part A, of the Rehabilitation Act, the entity that carries out the program for the purposes of paragraph (a) of this section is the designated State agency or designated unit specified under section 101(a)(2) that is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; and

(3) Under WIA, the national programs, including Job Corps, the WIA Indian and Native American program, the Migrant and Seasonal Farmworkers program, and the Veterans' Workforce Investment program, are required One-Stop partners. Local Boards must include them in the One-Stop delivery system where they are present in their local area. In local areas where the national programs are not present, States and Local Boards should take steps to ensure that customer groups served by these programs have access to services through the One-Stop delivery system.

§ 662.230 What are the responsibilities of the required One-Stop partners?

All required partners must:

(a) Make available to participants through the One-Stop delivery system the core services that are applicable to the partner's programs; (WIA section 121(b)(1)(A).)

(b) Use a portion of funds made available to the partner's program, to the extent not inconsistent with the Federal law authorizing the partner's program, to:

(1) Create and maintain the One-Stop delivery system; and

(2) Provide core services; (WIA sec. 134(d)(1)(B).)

(c) Enter into a memorandum of understanding (MOU) with the Local Board relating to the operation of the One-Stop system that meets the requirements of § 662.300, including a description of services, how the cost of the identified services and operating costs of the system will be funded, and methods for referrals (WIA sec. 121(c));

(d) Participate in the operation of the One-Stop system consistent with the terms of the MOU and requirements of authorizing laws; (WIA sec. 121(b)(1)(B).) and

(e) Serve as a representative on the local workforce investment board. (WIA sec. 117(b)(2)(A)(vi).)

§ 662.240 What are a program's applicable core services?

(a) The core services applicable to any One-Stop partner program are those services described in paragraph (b) of this section, that are authorized and provided under the partner's program.

(b) The core services identified in section 134(d)(2) of the WIA are:

(1) Determinations of whether the individuals are eligible to receive assistance under subtitle B of title I of WIA;

(2) Outreach, intake (which may include worker profiling), and orientation to the information and other services available through the One-Stop delivery system;

(3) Initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

(4) Job search and placement assistance, and where appropriate, career counseling;

(5) Provision of employment statistics information, including the provision of

accurate information relating to local, regional, and national labor market areas, including—

(i) Job vacancy listings in such labor market areas;

(ii) Information on job skills necessary to obtain the listed jobs; and

(iii) Information relating to local occupations in demand and the earnings and skill requirements for such occupations;

(6) Provision of program performance information and program cost information on:

(i) Eligible providers of training services described in WIA section 122;

(ii) Eligible providers of youth activities described in WIA section 123;

(iii) Providers of adult education described in title II;

(iv) Providers of postsecondary vocational education activities and vocational education activities available to school dropouts under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 *et seq.*); and

(v) Providers of vocational rehabilitation program activities described in title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 *et seq.*);

(7) Provision of information on how the local area is performing on the local performance measures and any additional performance information with respect to the One-Stop delivery system in the local area;

(8) Provision of accurate information relating to the availability of supportive services, including, at a minimum, child care and transportation, available in the local area, and referral to such services, as appropriate;

(9) Provision of information regarding filing claims for unemployment compensation;

(10) Assistance in establishing eligibility for—

(i) Welfare-to-work activities authorized under section 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5)) available in the local area; and

(ii) Programs of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and

(11) Followup services, including counseling regarding the workplace, for participants in workforce investment activities authorized under subtitle (B) of title I of WIA who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

§ 662.250 Where and to what extent must required One-Stop partners make core services available?

(a) At a minimum, the core services that are applicable to the program of the partner under § 662.220, and that are in addition to the basic labor exchange services traditionally provided in the local area under the Wagner-Peyser program, must be made available at the comprehensive One-Stop center. These services must be made available to individuals attributable to the partner's program who seek assistance at the center. The adult and dislocated worker program partners are required to make all of the core services listed in § 662.240 available at the center in accordance with 20 CFR 663.100(b)(1).

(b) The applicable core services may be made available by the provision of appropriate technology at the comprehensive One-Stop center, by co-locating personnel at the center, cross-training of staff, or through a cost reimbursement or other agreement between service providers at the comprehensive One-Stop center and the partner, as described in the MOU.

(c) The responsibility of the partner for the provision of core services must be proportionate to the use of the services at the comprehensive One-Stop center by the individuals attributable to the partner's program. The specific method of determining each partner's proportionate responsibility must be described in the MOU.

(d) For purposes of this part, individuals attributable to the partner's program may include individuals who are referred through the comprehensive One-Stop center and enrolled in the partner's program after the receipt of core services, who have been enrolled in the partner's program prior to receipt of the applicable core services at the center, who meet the eligibility criteria for the partner's program and who receive an applicable core service, or who meet an alternative definition described in the MOU.

(e) Under the MOU, the provision of applicable core services at the Center by the One-Stop partner may be supplemented by the provision of such services through the networks of affiliated sites and networks of One-Stop partners described in WIA section 134(c)(2).

§ 662.260 What services, in addition to the applicable core services, are to be provided by One-Stop partners through the One-Stop delivery system?

In addition to the provision of core services, One-Stop partners must provide access to the other activities and programs carried out under the partner's authorizing laws. The access to these services must be described in the local MOU. 20 CFR part 663 describes the specific requirements relating to the provision of core, intensive, and training services through the One-Stop system that apply to the adult and the dislocated worker programs authorized under title I of WIA. Additional requirements apply to the provision of all labor exchange services under the Wagner-Peyser Act. (WIA sec. 134(c)(1)(D).)

§ 662.270 How are the costs of providing services through the One-Stop delivery system and the operating costs of the system to be funded?

The MOU must describe the particular funding arrangements for services and operating costs of the One-Stop delivery system. Each partner must contribute a fair share of the operating costs of the One-Stop delivery system proportionate to the use of the system by individuals attributable to the partner's program. There are a number of methods, consistent with the requirements of the relevant OMB circulars, that may be used for allocating costs among the partners. Some of these methodologies include allocations based on direct charges, cost pooling, indirect cost rates and activity-based cost allocation plans. Additional guidance relating to cost allocation methods may be issued by the Department in consultation with the other appropriate Federal agencies.

§ 662.280 Does title I require One-Stop partners to use their funds for individuals who are not eligible for the partner's program or for services that are not authorized under the partner's program?

No. The requirements of the partner's program continue to apply. The Act intends to create a seamless service delivery system for individuals seeking workforce development services by linking the One-Stop partners in the One-Stop delivery system. While the overall effect is to provide universal access to core services, the resources of each partner may only be used to provide services that are authorized and provided under the partner's program to individuals who are eligible under such program. (WIA sec. 121(b)(1).)

Subpart C—Memorandum of Understanding of the One-Stop Delivery System

§ 662.300 What is the Memorandum of Understanding?

(a) The Memorandum of Understanding (MOU) is an agreement developed and executed between the Local Board, with the agreement of the

chief elected official, and the One-Stop partners relating to the operation of the One-Stop delivery system in the local area.

(b) The MOU must contain the provisions required by WIA section 121(c)(2). These provisions cover services to be provided through the One-Stop delivery system; the funding of the services and operating costs of the system; and methods for referring individuals between the One-Stop operators and partners. The MOU's provisions also must determine the duration and procedures for amending the MOU, and may contain any other provisions that are consistent with WIA title I and these regulations agreed to by the parties. (WIA sec. 121(c).)

§ 662.310 Is there a single MOU for the local area or are there to be separate MOU's between the Local Board and each partner?

(a) A single ''umbrella'' MOU may be developed that addresses the issues relating to the local One-Stop delivery system for the Local Board and all partners, or the Local Board and the partners may decide to enter into separate agreements between the Local Board and one or more partners. Under either approach, the requirements described in § 662.310 apply. Since funds are generally appropriated annually, financial agreements may be negotiated with each partner annually to clarify funding of services and operating costs of the system under the MOU.

(b) WIA emphasizes full and effective partnerships between Local Boards and One-Stop partners. Local Boards and partners must enter into good-faith negotiations. Local Boards and partners may request assistance from a State agency responsible for administering the partner program, the Governor, State Board, or other appropriate parties. The State agencies, the State Board, and the Governor may also consult with the appropriate Federal agencies to address impasse situations after exhausting other alternatives. The Local Board and partners must document the negotiations and efforts that have taken place. Any failure to execute an MOU between a Local Board and a required partner must be reported by the Local Board and the required partner to the Governor or State Board, and the State agency responsible for administering the partner's program, and by the Governor or the State Board and the responsible State agency to the Secretary of Labor and to the head of any other Federal agency with responsibility for oversight of a partner's program. (WIA sec. 121(c).)

(c) If an impasse has not been resolved through the alternatives available under this section any partner that fails to execute an MOU may not be permitted to serve on the Local Board. In addition, any local area in which a Local Board has failed to execute an MOU with all of the required partners is not eligible for State incentive grants awarded on the basis of local coordination of activities under 20 CFR 665.200(d)(2).

Subpart D—One-Stop Operators

§ 662.400 Who is the One-Stop operator?

(a) The One-Stop operator is the entity that performs the role described in paragraph (c) of this section. The types of entities that may be selected to be the One-Stop operator include:

(1) A postsecondary educational institution;

(2) An Employment Service agency established under the Wagner-Peyser Act on behalf of the local office of the agency;

(3) A private, nonprofit organization (including a community-based organization);

(4) A private for-profit entity;

(5) A government agency; and

(6) Another interested organization or entity.

(b) One-Stop operators may be a single entity or a consortium of entities and may operate one or more One-Stop centers. In addition, there may be more than one One-Stop operator in a local area.

(c) The agreement between the Local Board and the One-Stop operator shall specify the operator's role. That role may range between simply coordinating service providers within the center to being the primary provider of services within the center. (WIA sec. 121(d).)

§ 662.410 How is the One-Stop operator selected?

(a) The Local Board, with the agreement of the chief elected official, must designate and certify One-Stop operators in each local area.

(b) The One-Stop operator is designated or certified:

(1) Through a competitive process, or

(2) Under an agreement between the Local Board and a consortium of entities that includes at least three or more of the required One-Stop partners identified at § 662.200. (WIA sec. 121(d).)

§ 662.420 Under what limited conditions may the Local Board be designated or certified as the One-Stop operator?

(a) The Local Board may be designated or certified as the One-Stop operator only with the agreement of the chief elected official and the Governor.

(b) The designation or certification must be made publicly, in accordance with the requirements of the ''sunshine provision'' in WIA section 117(e), and must be reviewed whenever the biennial certification of the Local Board is made under 20 CFR 663.300(a). (WIA sec. 117(f)(2).)

§ 662.430 Under what conditions may existing One-Stop delivery systems be certified to act as the One-Stop operator?

Under WIA section 121(e), the Local Board, the chief elected official and the Governor may agree to certify an entity as a One-Stop operator under the following circumstances:

(a) A One-Stop delivery system, consistent with the scope and meaning of the term in WIA section 134(c), existed in the local area prior to August 7, 1998;

(b) The certification is consistent with the requirements of:

(1) WIA section 121(b) and;

(2) the Memorandum(s) of Understanding; and

(c) The certification must be made publicly, in accordance with the ''sunshine provision'' at WIA section 117(e). (WIA section 121(e).)

PART 663—ADULT AND DISLOCATED WORKER ACTIVITIES UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart A— Delivery of Adult and Dislocated Worker Services Through the One-Stop Delivery System

Sec.

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Authority: Section 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c).

Subpart A—Delivery of Adult and Dislocated Worker Services through the One-Stop Delivery System

§ 663.100 What is the role of the adult and dislocated worker program in the One-Stop delivery system?

(a) The One-Stop system is the basic delivery system for adult and dislocated worker services. Through this system, adults and dislocated workers can access a continuum of services. The services are organized into three levels: core, intensive, and training.

(b) The chief elected official or his/her designee(s), as the local grant recipient(s) for the adult and dislocated worker programs, is a required One-Stop partner and is subject to the provisions relating to such partners described in 20 CFR part 662. Consistent with those provisions:

(1) Core services for adults and dislocated workers must be made available in at least one comprehensive One-Stop center in each local workforce investment area. Services may also be available elsewhere, either at affiliated sites or at specialized centers. For example, specialized centers may be established to serve workers being dislocated from a particular employer or industry, or to serve residents of public housing.

(2) The One-Stop centers also make intensive services available to adults and dislocated workers, as needed, either by the One-Stop operator directly or through contracts with service providers that are approved by the Local Board.

(3) Through the One-Stop system, adults and dislocated workers needing training are provided Individual Training Accounts (ITA's) and access to lists of eligible providers of training. These lists contain quality consumer information, including cost and performance information for each of the providers, so that participants can make informed choices on where to use their ITA's. (ITA's are more fully discussed in subpart D of this part.)

§ 663.105 When must adults and dislocated workers be registered?

(a) Registration is the process for collecting information for supporting a determination of eligibility. This information may be collected through methods that include electronic data transfer, personal interview, or an individual's application.

(b) Adults and dislocated workers who receive services funded under title I other than self-service or informational activities must be registered and determined eligible.

(c) EEO data must be collected on individuals during the registration process.

§ 663.110 What are the eligibility criteria for adults in the adult and dislocated worker program?

To be an eligible adult in the adult and dislocated worker program, an individual must be 18 years of age or older. To be eligible for the dislocated worker program, an eligible adult must meet the criteria of § 663.115 of this subpart.

§ 663.115 What are the eligibility criteria for dislocated workers in the adult and dislocated worker program?

(a) To be an eligible dislocated worker in the adult and dislocated worker program, an individual must meet the definition of ''dislocated worker'' at WIA section 101(9).

(b) Governors and Local Boards may establish policies and procedures for One-Stop operators to use in determining an individual's eligibility as a dislocated worker, consistent with the definition at WIA section 101(9). These policies and procedures may address such conditions as:

(1) What constitutes a ''general announcement'' of plant closing under WIA section 101(9)(B)(ii) or (iii); and (2) What constitutes ''unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters' for determining the eligibility of self-employed individuals, including family members and farm or ranch hands, under WIA section 101(9)(C).

§ 663.120 Are displaced homemakers eligible for dislocated worker activities under WIA?

(a) Yes. There are two significant differences from the eligibility requirements under the Job Training Partnership Act.

(b) Under the dislocated worker program in JTPA, displaced homemakers are defined as ''additional dislocated workers'' and are only eligible to receive services if the Governor determines that providing such services would not adversely affect the delivery of services to the other eligible dislocated workers. Under WIA section 101(9), displaced homemakers who meet the definition at WIA section 101(10) are eligible dislocated workers without any additional determination.

(c) The definition of displaced homemaker under JTPA included individuals who had been dependent upon public assistance under Aid for Families with Dependent Children (AFDC) as well as those who had been dependent on the income of another family member. The definition in WIA section 101(10) includes only those individuals who were dependent on a family member's income. Those individuals who have been dependent on public assistance may be served in the adult program.

§ 663.145 What services are WIA title I adult and dislocated workers formula funds used to provide?

(a) WIA title I formula funds allocated to local areas for adults and dislocated workers must be used to provide core, intensive and training services through the One-Stop delivery system. Local Boards determine the most appropriate mix of these services, but all three types must be available for both adults and dislocated workers.

(b) WIA title I funds may also be used to provide the other services described in WIA section 134(e):

(1) Discretionary One-Stop delivery activities, including:

(i) Customized screening and referral of qualified participants in training services to employment; and

(ii) Customized employment-related services to employers on a fee-for-service basis that are in addition to labor exchange services available to employers under the Wagner-Peyser Act.

(2) Supportive services, including needs-related payments, as described in subpart H of this part.

§ 663.150 What core services must be provided to adults and dislocated workers?

(a) At a minimum, all of the core services described in WIA section 134(d)(2) and 20 CFR 662.220 must be provided in each local area through the One-Stop delivery system.

(b) Followup services must be made available, for a minimum of 12 months following the first day of employment, to registered participants who are placed in unsubsidized employment.

§ 663.155 How are core services delivered?

Core services must be provided through the One-Stop delivery system. Core services may be provided directly by the One-Stop operator or through contracts with service providers that are approved by the Local Board. The Local Board may only be a provider of core services when approved by the chief elected official and the Governor in accordance with the requirements of WIA section 117(f)(2) and 20 CFR 661.310.

§ 663.160 Are there particular core services an individual must receive before receiving intensive services under WIA section 134(d)(3)?

(a) Yes. At a minimum, an individual must receive at least one core service, such as an initial assessment or job search and placement assistance, before receiving intensive services. The initial assessment determines the individual's skill levels, aptitudes, and supportive services needs. The job search and placement assistance helps the individual determine whether he or she is unable to obtain employment, and thus requires more intensive services to obtain employment. The decision on which core services to provide, and the timing of their delivery, may be made on a case-by-case basis at the local level depending upon the needs of the participant.

(b) A determination of the need for intensive services under § 663.220, as established by the initial assessment or the individual's inability to obtain employment through the core services provided, must be contained in the participant's case file.

§ 663.165 How long must an individual be in core services in order to be eligible for intensive services?

There is no Federally-required minimum time period for participation in core services before receiving intensive services. [WIA section 134(d)(3).]

Subpart B—Intensive Services

§ 663.200 What are intensive services for adults and dislocated workers?

(a) Intensive services are listed in WIA section 134(d)(3)(C). The list in the Act is not all-inclusive and other intensive services, such as out-of-area job search assistance, literacy activities related to basic workforce readiness, relocation assistance, internships, and work experience may be provided, based on an assessment or individual employment plan.

(b) For the purposes of paragraph (a) of this section, work experience is a planned, structured learning experience that takes place in a workplace for a limited period of time. Work experience may be paid or unpaid, as appropriate. A work experience workplace may be in the private for profit sector, the non-profit sector, or the public sector.

§ 663.210 How are intensive services delivered?

(a) Intensive services must be provided through the One-Stop delivery system. Intensive services may be provided directly by the One-Stop operator or through contracts with service providers that are approved by the Local Board. (WIA secs. 117(d)(2)(D) and 134(d)(3)(B).)

(b) The Local Board may only be a provider of intensive services when approved by the chief elected official and the Governor in accordance with WIA section 117(f)(2) and 20 CFR 661.310.

§ 663.220 Who may receive intensive services?

There are two categories of adults and dislocated workers who may receive intensive services:

(a) Adults and dislocated workers who are unemployed, have received at least one core service and are unable to obtain employment through core

services, and are determined by a One-Stop operator to be in need of more intensive services to obtain employment; and

(b) Adults and dislocated workers who are employed, have received at least one core service, and are determined by a One-Stop operator to be in need of intensive services to obtain or retain employment that leads to self-sufficiency, as described in § 663.230.

§ 663.230 What criteria must be used to determine whether an employed worker needs intensive services to obtain or retain employment leading to ''self-sufficiency''?

State Boards or Local Boards must set the criteria for determining whether employment leads to self-sufficiency. At a minimum, such criteria must provide that self-sufficiency means employment that pays at least the lower living standard income level, as defined in WIA section 101(24). Self-sufficiency for a dislocated worker may be defined in relation to a percentage of the layoff wage.

§ 663.240 Are there particular intensive services an individual must receive prior to receiving training services under WIA section 134(d)(4)(A)(i)?

(a) Yes. At a minimum, an individual must receive at least one intensive service, such as development of an individual employment plan with a case manager or individual counseling and career planning, before the individual may receive training services.

(b) The case file must contain a determination of need for training services under § 663.310, as identified in the individual employment plan, comprehensive assessment, or through any other intensive service received.

§ 663.245 What is the individual employment plan?

The individual employment plan is an ongoing strategy jointly developed by the participant and the case manager that identifies the participant's employment goals, the appropriate achievement objectives, and the appropriate combination of services for the participant to achieve the employment goals.

§ 663.250 How long must an individual participant be in intensive services to be eligible for training services?

There is no Federally-required minimum time period for participation in intensive services before receiving training services. (WIA section 134(d)(4)(A)(i).)

Subpart C—Training Services

§ 663.300 What are training services for adults and dislocated workers?

Training services are listed in WIA section 134(d)(4)(D). The list in the Act is not all-inclusive and additional training services may be provided.

§ 663.310 Who may receive training services?

Training services may be made available to employed and unemployed adults and dislocated workers who:

(a) Have met the eligibility requirements for intensive services, have received at least one intensive service under § 663.240, and have been determined to be unable to obtain or retain employment through such services;

(b) After an interview, evaluation, or assessment, and case management, have been determined by a One-Stop operator or One-Stop partner, to be in need of training services and to have the skills and qualifications to successfully complete the selected training program;

(c) Select a program of training services that is directly linked to the employment opportunities either in the local area or in another area to which the individual is willing to relocate;

(d) Are unable to obtain grant assistance from other sources to pay the costs of such training, including Federal Pell Grants established under title IV of the Higher Education Act of 1965, or require WIA assistance in addition to other sources of grant assistance, including Federal Pell Grants (provisions relating to fund coordination are found at § 663.320 and WIA section 134(d)(4)(B)); and

(e) For individuals whose services are provided through the adult funding stream, are determined eligible in accordance with the State and local priority system, if any, in effect for adults under WIA section 134(d)(4)(E) and § 663.600. [WIA section 134(d)(4)(A).]

§ 663.320 What are the requirements for coordination of WIA training funds and other grant assistance?

(a) WIA funding for training is limited to participants who:

(1) Are unable to obtain grant assistance from other sources to pay the costs of their training; or

(2) Require assistance beyond that available under grant assistance from other sources to pay the costs of such training. Program operators and training providers must coordinate funds available to pay for training as described in paragraphs (b) and (c) of this section.

(b) Program operators must coordinate training funds available and make funding arrangements with One-Stop partners and other entities to apply the provisions of paragraph (a) of this section. Training providers must consider the availability of Pell Grants and other sources of grants to pay for training costs, so that WIA funds supplement other sources of training grants.

(c) A WIA participant may enroll in WIA-funded training while his/her application for a Pell Grant is pending as long as the One-Stop operator has made arrangements with the training provider and the WIA participant regarding allocation of the Pell Grant, if it is subsequently awarded. In that case, the training provider must reimburse the One-Stop operator the WIA funds used to underwrite the training for the amount the Pell Grant covers. Reimbursement is not required from the portion of Pell Grant assistance disbursed to the WIA participant for education-related expenses. (WIA section 134(d)(4)(B).)

Subpart D—Individual Training Accounts

§ 663.400 How are training services provided?

Except under the three conditions described in WIA section 134(d)(4)(G)(ii) and § 663.430(a), the Individual Training Account (ITA) is established for eligible individuals to finance training services. Local Boards may only provide training services under § 663.430 if they receive a waiver from the Governor and meet the requirements of 20 CFR 661.310 and WIA section 117(f)(1). (WIA section 134(d)(4)(G).)

§ 663.410 What is an Individual Training Account?

The ITA is established on behalf of a participant. WIA title I adult and dislocated workers purchase training services from eligible providers they select in consultation with the case manager. Payments from ITA's may be made in a variety of ways, including the electronic transfer of funds through financial institutions, vouchers, or other appropriate methods. Payments may also be made incrementally; through payment of a portion of the costs at different points in the training course. (WIA section 134(d)(4)(G).)

§ 663.420 Can the duration and amount of ITA's be limited?

(a) Yes. The State or Local Board may impose limits on ITA's, such as limitations on the dollar amount and/or duration.

(b) Limits to ITA's may be established in different ways:

(1) There may be a limit for an individual participant that is based on the needs identified in the individual employment plan; or

(2) There may be a policy decision by the State Board or Local Board to establish a range of amounts and/or a maximum amount applicable to all ITA's.

(c) Limitations established by State or Local Board policies must be described in the State or Local Plan, respectively, but should not be implemented in a manner that undermines the Act's requirement that training services are provided in a manner that maximizes customer choice in the selection of an eligible training provider.

§ 663.430 Under what circumstances may mechanisms other than ITA's be used to provide training services?

(a) Contracts for services may be used instead of ITA's only when one of the following three exceptions applies:

(1) When the services provided are on-the-job training (OJT) or customized training;

(2) When the Local Board determines that there are an insufficient number of eligible providers in the local area to accomplish the purpose of a system of ITA's. The Local Plan must describe the process to be used in selecting the providers under a contract for services. This process must include a public comment period for interested providers of at least 30 days;

(3) When the Local Board determines that there is a training services program of demonstrated effectiveness offered in the area by a community-based organization (CBO) or another private organization to serve special participant populations that face multiple barriers to employment, as described in paragraph (b) in this section. The Local Board must develop criteria to be used in determining demonstrated effectiveness, particularly as it applies to the special participant population to be served. The criteria may include:

(i) Financial stability of the organization;

(ii) Demonstrated performance in measures appropriate to the program including program completion rate; attainment of the skills, certificates or degrees the program is designed to provide; placement after training in unsubsidized employment; and retention in employment; and

(iii) How the specific program relates to the workforce investment needs identified in the local plan.

(b) Under paragraph (a)(3) of this section, special participant populations that face multiple barriers to employment are populations of low-income individuals that are included in one or more of the following categories:

(1) Individuals with substantial language or cultural barriers;

(2) Offenders;

(3) Homeless individuals; and

(4) Other hard-to-serve populations as defined by the Governor.

§ 663.440 What are the requirements for consumer choice?

(a) Training services, whether under ITA's or under contract, must be provided in a manner that maximizes informed consumer choice in selecting an eligible provider.

(b) Each Local Board, through the One-Stop center, must make available to customers the State list of eligible providers required in WIA section 122(e). The list includes a description of the programs through which the providers may offer the training services, the information identifying eligible providers of on-the-job training and customized training required under WIA section 122(h) (where applicable), and the performance and cost information about eligible providers of training services described in WIA sections 122(e) and (h).

(c) An individual who has been determined eligible for training services under § 663.310 may select a provider described in paragraph (b) of this section after consultation with a case manager. Unless the program has exhausted funds for the program year, the operator must refer the individual to the selected provider, and establish an ITA for the individual to pay for training. For purposes of this paragraph, a referral may be carried out by providing a voucher or certificate to the individual to obtain the training.

(d) The cost of referral of an individual with an ITA to a training provider is paid by the applicable adult or dislocated worker program under title I of WIA.

Subpart E—Eligible Training Providers

§ 663.500 What is the purpose of this subpart?

The workforce investment system established under WIA emphasizes informed customer choice, system performance, and continuous improvement. The eligible provider process is part of the strategy for achieving these goals. Local Boards, in partnership with the State, identify training providers whose performance qualifies them to receive WIA funds to train adults and dislocated workers. After receiving core and intensive services and in consultation with case managers, eligible participants who need training use the list of these eligible providers to make an informed choice. The ability of providers to successfully perform, the procedures State and Local Boards use to establish eligibility, and the degree to which information, including performance information, on those providers is made available to customers eligible for training services, are key factors affecting the successful implementation of the Statewide workforce investment system. This subpart describes the process for determining eligible training providers.

§ 663.505 What are Eligible Providers of Training Services?

(a) Eligible providers of training services are described in WIA section 122. They are those entities eligible to receive WIA title I–B funds to provide training services to eligible adult and dislocated worker customers.

(b) In order to provide training services under WIA title I–B, a provider must meet the requirements of this subpart and WIA section 122.

(1) These requirements apply to the use of WIA title I adult and dislocated worker funds to provide training:

(i) To individuals using ITA's to access training through the eligible provider list; and

(ii) To individuals for training provided through the exceptions to ITA's described at § 663.430(a)(2) and (a)(3).

(2) These requirements apply to all organizations providing training to adult and dislocated workers, including:

(i) Postsecondary educational institutions providing a program described in section 122(a)(2)(A)(ii);

(ii) Entities that carry out programs under the National Apprenticeship Act (29 U.S.C. 50 *et seq.*);

(iii) Other public or private providers of a program of training services described in WIA section 122(a)(2)(C);

(iv) Local Boards, if they meet the conditions of WIA section 117(f)(1), and

(v) Community-based organizations and other private organizations providing training under § 663.430.

(c) Provider eligibility procedures must be established by the Governor, as required by this subpart. Different procedures are described in WIA for determinations of ''initial'' and ''subsequent'' eligibility. Because the processes are different, they are discussed separately.

§ 663.508 What is a ''program of training services''?

A program of training services is:

(a) One or more courses or classes that, upon successful completion, leads to:

(1) A certificate, an associate degree, or baccalaureate degree, or

(2) A competency or skill recognized by employers, or

(b) A training regimen that provides individuals with additional skills or competencies generally recognized by employers.

§ 663.510 Who is responsible for managing the eligible provider process?

(a) The State and the Local Boards each have responsibilities for managing the eligible provider process.

(b) The Governor must establish eligibility criteria for certain providers to become initially eligible and must set minimum levels of performance for all providers to remain subsequently eligible.

(c) The Governor must designate a State agency (called ''designated State agency'') to assist in carrying out WIA section 122. The designated State agency is responsible for:

(1) Developing and maintaining the State list of eligible providers, which is comprised of lists submitted by Local Boards;

(2) Verifying the accuracy of the information on the State list, in consultation with the Local Boards, removing providers who do not meet program performance levels, and taking appropriate enforcement actions, against providers in the case of the intentional provision of inaccurate information, as described in WIA section 122(f)(1), and in the case of a substantial violation of the requirements of WIA, as described in WIA section 122(f)(2);

(3) Disseminating the State list, accompanied by performance and cost information relating to each provider, to One-Stop operators throughout the State.

(d) The Local Board must:

(1) Accept applications for initial eligibility from certain postsecondary institutions and entities providing apprenticeship training;

(2) Carry out procedures prescribed by the Governor to assist in determining the initial eligibility of other providers;

(3) Carry out procedures prescribed by the Governor to assist in determining the subsequent eligibility of all providers;

(4) Compile a local list of eligible providers, collect the performance and cost information and any other required information relating to providers;

(5) Submit the local list and information to the designated State agency;

(6) Ensure the dissemination and appropriate use of the State list through the local One-Stop system;

(7) Consult with the designated State agency in cases where termination of an eligible provider is contemplated because inaccurate information has been provided; and

(8) Work with the designated State agency in cases where the termination of an eligible provider is contemplated because of violations of the Act.

(e) The Local Board may:

(1) Make recommendations to the Governor on the procedures to be used in determining initial eligibility of certain providers;

(2) Increase the levels of performance required by the State for local providers to maintain subsequent eligibility;

(3) Require additional verifiable program-specific information from local providers to maintain subsequent eligibility.

§ 663.515 What is the process for initial determination of provider eligibility?

(a) For postsecondary educational institutions that are eligible to receive assistance under title IV of the Higher Education Act, and that provide a program that leads to an associate or baccalaureate degree or certificate, and for entities carrying out apprenticeship programs registered under the National Apprenticeship Act to be initially eligible to receive adult or dislocated worker training funds under title I of WIA, the institution or entity must submit an application to the Local Board(s) for the local area(s) in which the provider desires to provide training services that describes each program of training services, as defined in § 663.508, that leads to such a degree or certificate or is registered under the National Apprenticeship Act.

(b) Local Boards determine the procedures to use in making an application under paragraph (a) of this section. The Local Board procedures must specify the timing, manner, and contents of the required application.

(c) For other providers,

(1) The Governor must develop a procedure for use by Local Boards for determining the eligibility of other providers, after

(i) Soliciting and taking into consideration recommendations from Local Boards and providers of training services within the State; and

(ii) Providing an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on the procedure.

(2) The procedure must be described in the State Plan.

(3)(i) The procedure must require that the provider must submit an application to the Local Board at such time and in such manner as may be required, which contains a description of the program of training services;

(ii) If the provider provides a program of training services on the date of application, the procedure must require that the application include an appropriate portion of the performance information and program cost information described in § 663.540 of this subpart, and that the program meet appropriate levels of performance;

(iii) If the provider does not provide a program of training services on that date, the procedure must require that the provider meet appropriate requirements specified in the procedure. (WIA section 122(b)(2)(D).)

(4) Programs of training services provided by postsecondary educational institutions that do not lead to an associate or baccalaureate degree or certificate and apprenticeship programs that are not registered under the National Apprenticeship Act must be determined initially eligible under the provisions of this paragraph (c).

(d) The Local Board must include providers that meet the requirements of paragraphs (a) and (c) of this section on a local list and submit the list to the designated State agency. The State agency has 30 days to verify the information relating to the providers under paragraph (c) of this section. After the agency verifies that the provider meets the criteria for initial eligibility, or 30 days have elapsed, whichever occurs first, the provider is initially eligible as a provider of training services. The providers submitted under paragraph (a) of this section are initially eligible without State agency review. (WIA section 122(e).)

§ 663.530 Is there a time limit on the period of initial eligibility for training providers?

Yes. Under WIA section 122(c)(5), the Governor must require training providers to submit performance information and meet performance levels annually in order to remain eligible providers. States may require that these performance requirements be met one year from the date that initial eligibility was determined, or may require all eligible providers to submit performance information by the same date each year. If the latter approach is adopted, the Governor may exempt eligible providers whose determination of initial eligibility occurs within six months of the date of submissions. The effect of this requirement is that no training provider may have a period of initial eligibility that exceeds eighteen months.

§ 663.535 What is the process for determination of the subsequent eligibility of a provider?

(a) The Governor must develop a procedure for the Local Board to use in determining the subsequent eligibility of all eligible training providers determined initially eligible under § 663.515 (a) and (c), after:

(1) Soliciting and taking into consideration recommendations from Local Boards and providers of training services within the State, and

(2) Providing an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

(b) The procedure must be described in the State Plan.

(c) The procedure must require that:

(1) Providers annually submit performance and cost information as described at WIA sections 122(d)(1) and (2), for each program of training services for which the provider has been determined to be eligible, in a time and manner determined by the Local Board;

(2) Providers annually meet minimum performance levels described at WIA section 122(c)(6).

(d) The provider's performance information must meet the minimum acceptable levels established under paragraph (c)(2) of this section to remain eligible;

(e) Local Boards may require higher levels of performance for local providers than the levels specified in the procedures established by the Governor. (WIA sections 122(c)(5) and (c)(6).)

(f) The State procedure must require Local Boards to take into consideration:

(1) The specific economic, geographic and demographic factors in the local areas in which providers seeking eligibility are located, and

(2) The characteristics of the populations served by providers seeking eligibility, including the demonstrated difficulties in serving these populations, where applicable.

(g) The Local Board retains those providers on the local list that meet the required performance levels and other elements of the State procedures and submits the list, accompanied by the performance and cost information, and any additional required information, to the designated State agency. If the designated State agency determines within 30 days from the receipt of the information that the provider does not meet the performance levels established under paragraph (c)(2) of this section, the provider may be removed from the list. A provider retained on the local list and not removed by the designated State agency is considered an eligible provider of training services.

§ 663.540 What kind of performance and cost information is required for determinations of subsequent eligibility?

(a) Eligible providers of training services must submit, at least annually, under procedures established by the Governor under § 663.535(c):

(1) Verifiable program-specific performance information, including:

(i) The information described in WIA section 122(d)(1)(A)(i) for all individuals participating in the programs of training services, including individuals who are not receiving assistance under WIA section 134 and individuals who are receiving such assistance; and

(ii) The information described in WIA section 122(d)(1)(A)(ii) relating only to individuals receiving assistance under the WIA adult and dislocated worker program who are participating in the applicable program of training services; and

(2) Information on program costs (such as tuition and fees) for WIA participants in the program.

(b) Governors may require any additional verifiable performance information (such as the information described at WIA section 122(d)(2)) that the Governor determines to be appropriate to obtain subsequent eligibility, including information regarding all participating individuals as well as individuals receiving assistance under the WIA adult and dislocated worker program.

(c) If the additional information required under paragraph (b) of this section imposes extraordinary costs on providers, or if providers experience extraordinary costs in the collection of information,

(1) The Governor or Local Board must provide access to cost-effective methods for the collection of the information; or

(2) The Governor must provide additional resources to assist providers in the collection of the information from funds for Statewide workforce investment activities reserved under WIA sections 128(a) and 133(a)(1).

(d) The Local Board and the designated State agency may accept program-specific performance information consistent with the requirements for eligibility under title IV of the Higher Education Act of 1965 from a provider for purposes of enabling the provider to fulfill the applicable requirements of this section, if the information is substantially similar to the information otherwise required under this section.

§ 663.550 How is eligible provider information developed and maintained?

(a) The designated State agency must maintain a list of all eligible training providers in the State (the ''State list'').

(b) The State list is a compilation of the eligible providers identified or retained by local areas and that have not been removed under § 663.535(c) and 663.565.

(c) The State list must be accompanied by the performance and cost information contained in the local lists as required by § 663.535(e). (WIA section 122(e)(4)(A).)

§ 663.555 How is the State list disseminated?

(a) The designated State agency must disseminate the State list and accompanying performance and cost information to the One-Stop delivery systems within the State.

(b) The State list and information must be updated at least annually.

(c) The State list and accompanying information form the primary basis of the One-Stop consumer reports system that provides for informed customer choice. The list and information must be widely available, through the One-Stop delivery system, to customers seeking information on training outcomes, as well as participants in employment and training activities funded under WIA and other programs.

(1) The State list must be made available to individuals who have been determined eligible for training services under § 663.310.

(2) The State list must also be made available to customers whose training is supported by other One-Stop partners.

§ 663.565 May an eligible training provider lose its eligibility?

(a) Yes. A training provider must deliver results and provide accurate information in order to retain its status as an eligible training provider.

(b) If the provider does not meet the established performance levels, it will be removed from the eligible provider list.

(1) A Local Board must determine, during the subsequent eligibility determination process, whether a provider meets performance levels. If the provider fails to meet such levels, the provider must be removed from the local list.

(2) The designated State agency upon receipt of the performance information accompanying the local list, may remove a provider from the State list if the agency determines the provider failed to meet the levels of performance prescribed under § 663.535(c).

(3) Providers determined to have intentionally supplied inaccurate

information or to have subsequently violated any provision of title I of WIA or these regulations may be removed from the list in accordance with the enforcement provisions of WIA section 122(f). A provider whose eligibility is terminated under these conditions is liable to repay all adult and dislocated worker training funds it received during the period of noncompliance.

(4) The Governor must establish appeal procedures for providers of training to appeal a denial of eligibility under this part according to the requirements of 20 CFR 667.640(b).

§ 663.570 What is the consumer reports system?

The consumer reports system, referred to in WIA as performance information, is the vehicle for informing the customers of the One-Stop delivery system about the performance of training providers in the local area. It is built upon the State list of eligible providers developed through the procedures described in WIA section 122 and this subpart. The consumer reports system must contain the information necessary for an adult or dislocated worker customer to fully understand the options available to him or her in choosing a program of training services. Such program-specific factors may include overall performance, performance for significant customer groups (including wage replacement rates for dislocated workers), performance of specific provider sites, current information on employment and wage trends and projections, and duration of training programs.

§ 663.575 In what ways can a Local Board supplement the information available from the State list?

(a) Local Boards may supplement the information available from the State list by providing customers with additional information to assist in supporting informed customer choice and the achievement of local performance measures (as described in WIA section 136).

(b) This additional information may include:

(1) Information on programs of training services that are linked to occupations in demand in the local area;

(2) Performance and cost information, including program-specific performance and cost information, for the local outlet(s) of multi-site eligible providers; and

(3) Other appropriate information related to the objectives of WIA, which may include the information described in § 663.570.

§ 663.585 May individuals choose training providers located outside of the local area?

Yes. Individuals may choose any of the eligible providers on the State list. A State may also establish a reciprocal agreement with another State(s) to permit eligible providers of training services in each State to accept individual training accounts provided in the other State. (WIA sections 122(e)(4) and (e)(5).)

§ 663.590 May a community-based organization (CBO) be included on an eligible provider list?

Yes. CBO's may apply and be determined eligible providers of training services, under WIA section 122 and this subpart. As eligible providers, CBO's provide training through ITA's and may also receive contracts for training special participant populations when the requirements of § 663.430 are met.

§ 663.595 What requirements apply to providers of OJT and customized training?

For OJT and customized training providers, One-Stop operators in a local area must collect such performance information as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate a list of providers that have met such criteria, along with the relevant performance information about them, through the One-Stop delivery system. Providers determined to meet the criteria are considered to be identified as eligible providers of training services. These providers are not subject to the other requirements of WIA section 122 or this subpart.

Subpart F—Priority and Special Populations

§ 663.600 What priority must be given to low-income adults and public assistance recipients served with adult funds under title I?

(a) WIA states, in section 134(d)(4)(E), that in the event that funds allocated to a local area for adult employment and training activities are limited, priority for intensive and training services funded with title I adult funds must be given to recipients of public assistance and other low-income individuals in the local area.

(b) Since funding is generally limited, States and local areas must establish criteria by which local areas can determine the availability of funds and the process by which any priority will be applied under WIA section 134(d)(2)(E). Such criteria may include the availability of other funds for providing employment and training-related services in the local area, the needs of the specific groups within the local area, and other appropriate factors.

(c) States and local areas must give priority for adult intensive and training services to recipients of public assistance and other low-income individuals, unless the local area has determined that funds are not limited under the criteria established under paragraph (b) of this section.

(d) The process for determining whether to apply the priority established under paragraph (b) of this section does not necessarily mean that only the recipients of public assistance and other low income individuals may receive WIA adult funded intensive and training services when funds are determined to be limited in a local area. The Local Board and the Governor may establish a process that gives priority for services to the recipients of public assistance and other low income individuals and that also serves other individuals meeting eligibility requirements.

§ 663.610 Does the statutory priority for use of adult funds also apply to dislocated worker funds?

No. The statutory priority applies to adult funds for intensive and training services only. Funds allocated for dislocated workers are not subject to this requirement.

§ 663.620 How do the Welfare-to-Work program and the TANF program relate to the One-Stop delivery system?

(a) The local Welfare-to-Work (WtW) program operator is a required partner in the One-Stop delivery system. 20 CFR part 662 describes the roles of such partners in the One-Stop delivery system and applies to the Welfare-to-Work program operator. WtW programs serve individuals who may also be served by the WIA programs and, through appropriate linkages and referrals, these customers will have access to a broader range of services through the cooperation of the WtW program in the One-Stop system. WtW participants, who are determined to be WIA eligible, and who need occupational skills training may be referred through the One-Stop system to receive WIA training. WIA participants who are also determined WtW eligible, may be referred to the WtW operator for job placement and other WtW assistance.

(b) The local TANF agency is specifically suggested under WIA as an additional partner in the One-Stop system. TANF recipients will have access to more information about employment opportunities and services

when the TANF agency participates in the One-Stop delivery system. The Governor and Local Board should encourage the TANF agency to become a One-Stop partner to improve the quality of services to the WtW and TANF-eligible populations. In addition, becoming a One-Stop partner will ensure that the TANF agency is represented on the Local Board and participates in developing workforce investment strategies that help cash assistance recipients secure lasting employment.

§ 663.630 How does a displaced homemaker qualify for services under title I?

Displaced homemakers may be eligible to receive assistance under title I in a variety of ways, including:

(a) Core services provided by the One-Stop partners through the One-Stop delivery system;

(b) Intensive or training services for which an individual qualifies as a dislocated worker/displaced homemaker if the requirements of this part are met;

(c) Intensive or training services for which an individual is eligible if the requirements of this part are met;

(d) Statewide employment and training projects conducted with reserve funds for innovative programs for displaced homemakers, as described in 20 CFR 665.210(f) .

§ 663.640 May a disabled individual whose family does not meet income eligibility criteria under the Act be eligible for priority as a low income adult?

Yes. Even if the family of a disabled individual does not meet the income eligibility criteria, the disabled individual is to be considered a low-income individual if the individual's own income:

(a) Meets the income criteria established in WIA section 101(25)(B); or

(b) Meets the income eligibility criteria for cash payments under any Federal, State or local public assistance program. (WIA section 101(25)(F).)

Subpart G—On-the-Job Training (OJT) and Customized Training

§ 663.700 What are the requirements for on-the-job training (OJT)?

(a) On-the-job training (OJT) is defined at WIA section 101(31). OJT is provided by an employer in the public, private non-profit, or private sector. A contract may be developed between the employer and the local program that provides occupational training for the WIA participant in exchange for the reimbursement of up to 50 percent of the wage rate to compensate for the employer's extraordinary costs. (WIA section 101(31)(B).)

(b) The local program must not contract with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work. (WIA section 195(4).)

(c) An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan. (WIA section 101(31)(C).)

§ 663.705 What are the requirements for OJT contracts for employed workers?

OJT contracts may be written for eligible employed workers when:

(a) The employee is not earning a self-sufficient wage as determined by Local Board policy;

(b) The requirements in § 663.700 are met; and

(c) The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the Local Board.

§ 663.710 What conditions govern OJT payments to employers?

(a) On-the-job training payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and the costs associated with the lower productivity of the participants.

(b) Employers may be reimbursed up to 50 percent of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT. (WIA section 101(31)(B).)

(c) Employers are not required to document such extraordinary costs.

§ 663.715 What is customized training?

Customized training is training:

(a) that is designed to meet the special requirements of an employer (including a group of employers);

(b) that is conducted with a commitment by the employer to employ, or in the case of incumbent workers, continue to employ, an individual on successful completion of the training; and

(c) for which the employer pays for not less than 50 percent of the cost of the training. (WIA section 101(8).)

§ 663.720 What are the requirements for customized training for employed workers?

Customized training of an eligible employed individual may be provided for an employer or a group of employers when:

(a) The employee is not earning a self-sufficient wage as determined by Local Board policy;

(b) The requirements in § 663.715 are met; and

(c) The customized training relates to the purposes described in § 663.705(c) or other appropriate purposes identified by the Local Board.

Subpart H—Supportive Services

§ 663.800 What are supportive services for adults and dislocated workers?

Supportive services for adults and dislocated workers are defined at WIA sections 101(46) and 134(e)(2) and (3). They include services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under WIA title I. Local Boards, in consultation with the One-Stop partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination in the local area, such policy should address procedures for referral to such services, including how such services will be funded when they are not otherwise available from other sources. The provision of accurate information about the availability of supportive services in the local area, as well as referral to such activities, is one of the core services that must be available to adults and dislocated workers through the One-Stop delivery system. (WIA section 134(d)(2)(H).)

§ 663.805 When may supportive services be provided to participants?

(a) Supportive services may only be provided to individuals who are:

(1) Participating in core, intensive or training services; and

(2) Unable to obtain supportive services through other programs providing such services. (WIA section 134(e)(2)(A) and (B).)

(b) Supportive services may only be provided when they are necessary to enable individuals to participate in title I activities. (WIA section 101(46).)

§ 663.810 Are there limits on the amounts or duration of funds for supportive services?

(a) Local Boards may establish limits on the provision of supportive services or provide the One-Stop operator with the authority to establish such limits, including a maximum amount of funding and maximum length of time for supportive services to be available to participants.

(b) Procedures may also be established to allow One-Stop operators to grant exceptions to the limits established under paragraph (a) of this section.

§ 663.815 What are needs-related payments?

Needs-related payments provide financial assistance to participants for the purpose of enabling individuals to participate in training and are one of the supportive services authorized by WIA section 134(e)(3).

§ 663.820 What are the eligibility requirements for adults to receive needs-related payments?

Adults must:

(a) Be unemployed,

(b) Not qualify for, or have ceased qualifying for, unemployment compensation; and

(c) Be enrolled in a program of training services under WIA section 134(d)(4).

§ 663.825 What are the eligibility requirements for dislocated workers to receive needs-related payments?

To receive needs related payments, a dislocated worker must:

(a) Be unemployed, and:

(1) Have ceased to qualify for unemployment compensation or trade readjustment assistance under TAA or NAFTA–TAA; and

(2) Be enrolled in a program of training services under WIA section 134(d)(4) by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility as a dislocated worker, or, if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months; or

(b) Be unemployed and did not qualify for unemployment compensation or trade readjustment assistance under TAA or NAFTA–TAA.

§ 663.830 May needs-related payments be paid while a participant is waiting to start training classes?

Yes. Payments may be provided if the participant has been accepted in a training program that will begin within 30 calender days. The Governor may authorize local areas to extend the 30 day period to address appropriate circumstances.

§ 663.840 How is the level of needs-related payments determined?

(a) The payment level for adults must be established by the Local Board.

(b) For dislocated workers, payments must not exceed the greater of either of the following levels:

(1) For participants who were eligible for unemployment compensation as a result of the qualifying dislocation, the payment may not exceed the applicable weekly level of the unemployment compensation benefit; or

(2) For participants who did not qualify for unemployment compensation as a result of the qualifying layoff, the weekly payment may not exceed the poverty level for an equivalent period. The weekly payment level must be adjusted to reflect changes in total family income as determined by Local Board policies. (WIA section 134(e)(3)(C).)

PART 664—YOUTH ACTIVITIES UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

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Authority: Sec. 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c)

Subpart A—Youth Councils

§ 664.100 What is the youth council?

(a) The duties and membership requirements of the youth council are described in WIA section 117(h) and 20 CFR 661.335 and 661.340.

(b) The purpose of the youth council is to provide expertise in youth policy and to assist the Local Board in:

(1) Developing and recommending local youth employment and training policy and practice;

(2) Broadening the youth employment and training focus in the community to incorporate a youth development perspective;

(3) Establishing linkages with other organizations serving youth in the local area; and

(4) Taking into account a range issues that can have an impact on the success of youth in the labor market. (WIA sec. 117(h).)

§ 664.110 Who is responsible for oversight of youth programs in the local area?

(a) The Local Board, working with the youth council, is responsible for conducting oversight of local youth programs operated under the Act, to ensure both fiscal and programmatic accountability.

(b) Local program oversight is conducted in consultation with the local area's chief elected official.

(c) The Local Board may delegate its responsibility for oversight of eligible youth providers, as well as other oversight responsibilities, to the youth council, recognizing the advantage of delegating such responsibilities to the youth council whose members have expertise in youth issues. (WIA sec. 117(h)(4).)

Subpart B—Eligibility for Youth Services

§ 664.200 Who is eligible for youth services?

An eligible youth is defined, under WIA section 101(13), as an individual who:

(a) Is age 14 through 21;

(b) Is a low income individual, as defined in the WIA section 101(25); and

(c) Is within one or more of the following categories:

(1) Deficient in basic literacy skills;

(2) School dropout;

(3) Homeless, runaway, or foster child;

(4) Pregnant or parenting;

(5) Offender; or

(6) Is an individual (including a youth with a disability) who requires additional assistance to complete an educational program, or to secure and hold employment. (WIA sec. 101(13).)

§ 664.205 How is the ''deficient in basic literacy skills'' criterion in § 664.200(c)(1) defined and documented?

(a) Definitions and eligibility documentation requirements regarding the ''deficient in basic literacy skills'' criterion in § 664.200(c)(1) may be established at the State or local level. These definitions may establish such criteria as are needed to address State or local concerns, but must include a determination that an individual:

(1) Computes or solves problems, reads, writes, or speaks English at or below grade level 8.9; or

(2) Is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family or in society.

(b) In cases where the State Board establishes State policy on this criterion, the policy must be included in the State plan. (WIA secs. 101(13)(C)(i), 101(19).)

§ 664.210 How is the '' . . . requires additional assistance to complete an educational program, or to secure and hold employment'' criterion in § 664.200(c)(6) defined and documented?

Definitions and eligibility documentation requirements regarding the ''requires additional assistance to complete an educational program, or to secure and hold employment'' criterion of § 664.200(c)(6) may be established at the State or local level. In cases where the State Board establishes State policy on this criterion, the policy must be included in the State Plan. (WIA sec. 101(13)(C)(iv).)

§ 664.215 Must youth participants be registered to participate in the youth program?

(a) Yes. All youth participants must be registered.

(b) Registration is the process of collecting information to support a determination of eligibility.

(c) EEO data must be collected on individuals during the registration process.

§ 664.220 Is there an exception to permit youth who are not low-income individuals to receive youth services?

Yes. Up to five percent of youth participants served by youth programs in a local area may be individuals who do not meet the income criterion for eligible youth, provided that they are within one or more of the following categories:

(a) School dropout;

(b) Basic skills deficient, as defined in WIA section 101(4);

(c) Are one or more grade levels below the grade level appropriate to the individual's age;

(d) Pregnant or parenting;

(e) Possess one or more disabilities, including learning disabilities;

(f) Homeless or runaway;

(g) Offender; or

(h) Face serious barriers to employment as identified by the Local Board. (WIA sec. 129(c)(5).)

§ 664.230 Are the eligibility barriers for eligible youth the same as the eligibility barriers for the five percent of youth participants who do not have to meet income eligibility requirements?

No. The barriers listed in § 664.200 and § 664.220 are not the same. Both lists of eligibility barriers include school dropout, homeless or runaway, pregnant or parenting, and offender, but each list contains barriers not included on the other list.

§ 664.240 May a local program use eligibility for free lunches under the National School Lunch Program as a substitute for the income eligibility criteria under the title I of WIA?

No. The criteria for income eligibility under the National School Lunch Program are not the same as the Act's income eligibility criteria. Therefore, the school lunch list may not be used as a substitute for income eligibility to determine who is eligible for services under the Act.

§ 664.250 May a disabled youth whose family does not meet income eligibility criteria under the Act be eligible for youth services?

Yes. Even if the family of a disabled youth does not meet the income eligibility criteria, the disabled youth is to be considered a low-income individual if the youth's own income:

(a) Meets the income criteria established in WIA section 101(25)(B); or

(b) Meets the income eligibility criteria for cash payments under any Federal, State or local public assistance program. (WIA sec. 101(25)(F).)

Subpart C—Out-of-School Youth

§ 664.300 Who is ''out-of-school youth''?

An out-of-school youth is an individual who:

(a) Is an eligible youth who is a school dropout; or

(b) Is an eligible youth who has either graduated from high school or holds a GED, but is basic skills deficient, unemployed, or underemployed. (WIA sec. 101(33).)

§ 664.310 Is youth attending an alternative school a ''dropout''?

No. A school dropout is defined as an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent. A youth attending an alternative school is not a dropout. (WIA sec. 101(39).)

§ 664.320 Does the requirement that at least 30 percent of youth funds be used to provide activities to out-of-school youth apply to all youth funds?

(a) Yes. The 30 percent requirement applies to the total amount of all funds allocated to a local area under section 128(b)(2)(A) or (b)(3) of WIA.

(b) Although it is not necessary to ensure that 30 percent of such funds spent on summer employment opportunities (or any other particular element of the youth program) are spent on out-of-school youth, the funds spent on these activities are included in the total to which the 30 percent requirement applies.

(c) There is a limited exception, at WIA section 129(c)(4)(B), under which certain small States may apply to the Secretary to reduce the minimum amount that must be spent on out-of-school youth. (WIA sec. 129(c)(4).)

Subpart D—Youth Program Design, Elements, and Parameters

§ 664.400 How must local youth programs be designed?

(a) The design framework of local youth programs must:

(1) Provide an objective assessment of each youth participant, that meets the requirements of WIA section 129(c)(1)(A), and includes a review of the academic and occupational skill levels, as well as the service needs, of each youth;

(2) Develop an individual service strategy for each youth participant that meets the requirements of WIA section 129(c)(1)(B), including identifying a career goal and consideration of the assessment results for each youth; and

(3) Provide preparation for postsecondary educational opportunities, provide linkages between academic and occupational learning, provide preparation for employment, and provide effective connections to intermediary organizations that provide strong links to the job market and employers.

(b) The local plan must describe the design framework for youth program design in the local area, and of how the ten program elements required in § 664.410 of this part are provided within that framework.

(c) Local Boards must ensure appropriate links to entities that will foster the participation of eligible local area youth. Such links may include connections to:

(1) Local area justice and law enforcement officials;

(2) Local public housing authorities;

(3) Local education agencies;

(4) Job Corps representatives; and

(5) Representatives of other area youth initiatives, including those that serve homeless youth and other public and private youth initiatives.

(d) Local Boards must ensure that the referral requirements in WIA section 129(c)(3) for youth who meet the income eligibility criteria are met, including:

(1) Providing these youth with information regarding the full array of applicable or appropriate services available through the Local Board, providers found eligible by the board, or One-Stop partners; and

(2) Referring these youth to appropriate training and educational programs that have the capacity to serve them either on a sequential or concurrent basis.

(e) In order to meet the basic skills and training needs of eligible applicants who do not meet the enrollment requirements of a particular program or who cannot be served by the program, each eligible youth provider must ensure that these youth are referred:

(1) For further assessment, as necessary, and

(2) To appropriate programs, in accordance with paragraph (d)(2) of this section.

(f) Local Boards must ensure that parents, youth participants, and other members of the community with experience relating to youth programs are involved in both the design and implementation of its youth programs.

(g) The objective assessment required under paragraph (a)(1) of this section or the individual service strategy required under paragraph (a)(2) of this section is not required if the program provider determines that it is appropriate to use a recent objective assessment or individual service strategy that was developed under another education or training program. (WIA section 129(c)(1).)

§ 664.410 Must local programs include each of the ten program elements listed in WIA section 129(c)(2) as options available to youth participants?

(a) Yes. Local programs must make the following services available to youth participants:

(1) Tutoring, study skills training, and instruction leading to secondary school completion, including dropout prevention strategies;

(2) Alternative secondary school offerings;

(3) Summer employment opportunities directly linked to academic and occupational learning;

(4) Paid and unpaid work experiences, including internships and job shadowing, as provided in §§ 664.460 and 664.470 of this part;

(5) Occupational skill training;

(6) Leadership development opportunities, which may include such activities as positive social behavior and soft skills, decision making, team work, and other activities, as provided in §§ 664.420 and 664.430 of this part;

(7) Supportive services, which may include the services listed in § 664.440;

(8) Adult mentoring for a duration of at least twelve (12) months, that may occur both during and after program participation;

(9) Followup services, as provided in § 664.450; and

(10) Comprehensive guidance and counseling, including drug and alcohol abuse counseling, as well as referrals to counseling, as appropriate to the needs of the individual youth.

(b) Local programs have the discretion to determine what specific program services will be provided to a youth participant, based on each participant's objective assessment and individual service strategy. (WIA sec. 129(c)(2).)

§ 664.420 What are leadership development opportunities?

Leadership development opportunities for youth may include the following:

(a) Exposure to postsecondary educational opportunities;

(b) Community and service learning projects;

(c) Peer-centered activities, including peer mentoring and tutoring;

(d) Organizational and team work training, including team leadership training;

(e) Training in decision-making, including determining priorities;

(f) Citizenship training, including life skills training such as parenting, work behavior training, and budgeting of resources;

(g) Employability; and

(h) Positive social behaviors. (WIA sec. 129(c)(2)(F).)

§ 664.430 What are positive social behaviors?

Positive social behaviors, often referred to as soft skills, are incorporated by many local programs as part of their menu of services which focus on areas that may include, but are not limited to, the following:

(a) Positive attitudinal development;

(b) Self esteem building;

(c) Cultural diversity training; and

(d) Work simulation activities. (WIA sec. 129(c)(2)(F).)

§ 664.440 What are supportive services for youth?

Supportive services for youth, as defined in WIA section 101(46), may include the following:

(a) Linkages to community services;
(b) Assistance with transportation costs;
(c) Assistance with child care and dependent care costs;
(d) Assistance with housing costs;
(e) Referrals to medical services; and
(f) Assistance with uniforms or other appropriate work attire and work-related tool costs, including such items as eye glasses and protective eye gear. (WIA sec. 129(c)(2)(G).)

§ 664.450 What are followup services for youth?

(a) Followup services for youth may include:
(1) The leadership development and supportive service activities listed in §§ 664.420 and 664.440 of this part;
(2) Regular contact with a youth participant's employer, including assistance in addressing work-related problems that arise;
(3) Assistance in securing better paying jobs, career development and further education;
(4) Work-related peer support groups;
(5) Adult mentoring; and
(6) Tracking the progress of youth in employment after training.
(b) All youth participants must receive some form of followup services for a minimum duration of 12 months. Followup services may be provided beyond twelve (12) months at the State or Local Board's discretion. The types of services provided and the duration of services must be determined based on the needs of the individual. The scope of these followup services may be less intensive for youth who have only participated in summer youth employment opportunities. (WIA sec. 129(c)(2)(I).)

§ 664.460 What are work experiences for youth?

(a) Work experiences are planned, structured learning experiences that take place in a workplace for a limited period of time. As stated in § 664.470, work experiences may be paid or unpaid.
(b) Work experience workplaces may be in the private, for-profit sector; the non-profit sector; or the public sector.
(c) Work experiences are designed to enable youth to gain exposure to the working world and its requirements. Work experiences should help youth acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment. The purpose is to provide the youth participant with the opportunities for career exploration and skill development and is not to benefit the employer, although the employer may, in fact, benefit from the activities performed by the youth. Work experiences may be subsidized or unsubsidized and may include the following elements:
(1) Instruction in employability skills or generic workplace skills such as those identified by the Secretary's Commission on Achieving Necessary Skills (SCANS);
(2) Exposure to various aspects of an industry;
(3) Progressively more complex tasks;
(4) Internships and job shadowing;
(5) The integration of basic academic skills into work activities;
(6) Supported work, work adjustment, and other transition activities;
(7) Entrepreneurship; and
(8) Other elements designed to achieve the goals of work experience.
(d) In most cases, on-the-job training is not an appropriate work experiences activity for youth participants under age 18. Local program operators may choose, however, to use this service strategy for eligible youth when it is appropriate based on the needs identified by the objective assessment of an individual youth participant. (WIA sec. 129(c)(2)(D).)

§ 664.470 Are paid work experiences allowable activities?

Funds under the Act may be used to pay wages and related benefits for work experiences in the public; private; for-profit; or non-profit sectors where the objective assessment and individual service strategy indicate that work experiences are appropriate. (WIA sec. 129(c)(2)(D).)

Subpart E—Concurrent Enrollment

§ 664.500 May youth participate in both youth and adult programs concurrently?

(a) Under the Act, eligible youth are 14 through 21 years of age. Adults are defined in the Act as individuals age 18 and older. Thus, individuals ages 18 through 21 may be eligible for both adult and youth programs.
(b) Eligible individuals who are 18 through 21 years old may participate in adult and youth programs concurrently. Such individuals must be eligible under the youth or adult eligibility criteria applicable to the services received. Local program operators may determine, for individuals in this age group, the appropriate level and balance of youth and/or adult services.
(c) Local program operators must identify and track the funding streams which pay the costs of services provided to individuals who are participating in youth and adult programs concurrently, and ensure that services are not duplicated.

§ 664.510 Are Individual Training Accounts allowed for youth participants?

No. However, individuals age 18 and above, who are eligible for training services under the adult and dislocated worker program, may receive Individual Training Accounts through that program. Requirements for concurrent participation requirements are set forth in § 664.500 of this part. To the extent possible, in order to enhance youth participant choice, youth participants should be involved in the selection of educational and training activities.

Subpart F—Summer Employment Opportunities

§ 664.600 Are Local Boards required to offer summer employment opportunities in the local youth program?

(a) Yes. Local Boards are required to offer summer youth employment opportunities that link academic and occupational learning as part of the menu of services required in § 664.410(a).
(b) Summer youth employment must provide direct linkages to academic and occupational learning, and may provide other elements and strategies as appropriate to serve the needs and goals of the participants.
(c) Local Boards may determine how much of available youth funds will be used for summer and for year-round youth activities.
(d) The summer youth employment opportunities element is not intended to be a stand-alone program. Local programs should integrate a youth's participation in that element into a comprehensive strategy for addressing the youth's employment and training needs. Youths who participate in summer employment opportunities must be provided with a minimum of twelve months of followup services, as required in § 664.450. (WIA sec. 129(c)(2)(C).)

§ 664.610 How is the summer employment opportunities element administered?

Chief elected officials and Local Boards are responsible for ensuring that the local youth program provides summer employment opportunities to youth. The chief elected officials are the grant recipients for local youth funds, unless another entity is chosen to be grant recipient or fiscal agent under WIA section 117(d)(3)(B). If, in the administration of the summer employment opportunities element of the local youth program, providers other than the grant recipient/fiscal agent are used to provide summer youth employment opportunities, these providers must be selected by awarding a grant or contract on a competitive

basis, based on the recommendation of the youth council and on criteria contained in the State Plan. (WIA sec. 129(c)(2)(C).)

§ 664.620 Do the core indicators described in 20 CFR 666.100(a)(3) apply to participation in summer employment activities?

Yes. The summer employment opportunities element is one of a number of activities authorized by the WIA youth program. The law provides specific core indicators of performance for youth, and requires that all participating youth be included in the determination of whether the local levels of performance are met. Program operators can help ensure positive outcomes for youth participants by providing them with continuity of services.

Subpart G—One-Stop Services to Youth

§ 664.700 What is the connection between the youth program and the One-Stop service delivery system?

(a) The chief elected official (or designee under WIA section 117(d)(3)(B)), as the local grant recipient for the youth program is a required One-Stop partner and is subject to the requirements that apply to such partners, described in 20 CFR part 662.

(b) In addition to the provisions of 20 CFR part 662, connections between the youth program and the One-Stop system may include those that facilitate:

(1) The coordination and provision of youth activities;

(2) Linkages to the job market and employers;

(3) Access for eligible youth to the information and services required in §§ 664.400 and 664.410 of this part; and

(4) Other activities designed to achieve the purposes of the youth program and youth activities as described in WIA section 129(a). (WIA secs. 121(b)(1)(B)(i); 129.)

§ 664.710 Do Local Boards have the flexibility to offer services to area youth who are not eligible under the youth program through the One-Stop centers?

Yes. However, One-Stop services for non-eligible youth must be funded by programs that are authorized to provide services to such youth. For example, basic labor exchange services under the Wagner-Peyser Act may be provided to any youth.

Subpart H—Youth Opportunity Grants

§ 664.800 How are the recipients of Youth Opportunity Grants selected?

(a) Youth Opportunity Grants are awarded through a competitive selection process. The Secretary establishes appropriate application procedures, selection criteria, and an approval process for awarding Youth Opportunity Grants to accomplish the purpose of the Act and use available funds in an effective manner in the Solicitation for Grant Applications announcing the competition.

(b) The Secretary distributes grants equitably among urban and rural areas by taking into consideration such factors as the following:

(1) The poverty rate in urban and rural communities;

(2) The number of people in poverty in urban and rural communities; and

(3) The quality of proposals received. (WIA sec.169(a) and (e).)

§ 664.810 How does a Local Board or other entity become eligible to receive a Youth Opportunity Grant?

(a) A Local Board is eligible to receive a Youth Opportunity Grant if it serves a community that:

(1) Has been designated as an empowerment zone (EZ) or enterprise community (EC) under section 1391 of the Internal Revenue Code of 1986;

(2) Is located in a State that does not have an EZ or an EC and that has been designated by its Governor as a high poverty area; or

(3) Is one of two areas in a State that has been designated by the Governor as an area for which a local board may apply for a Youth Opportunity Grant, and that meets the poverty rate criteria in sections 1392 (a)(4), (b), and (d) of the Internal Revenue Code of 1986.

(b) An entity other than a Local Board is eligible to receive a grant if that entity:

(1) Is a WIA Indian and Native American grant recipient under WIA sec. 166; and

(2) Serves a community that:

(i) Meets the poverty rate criteria in sections 1392(a)(4), (b), and (d) of the Internal Revenue Code of 1986; and

(ii) Is located on an Indian reservation or serves Oklahoma Indians or Alaska Native villages or Native groups, as provided in WIA section 169 (d)(2)(B). (WIA sec. 169(c) and (d).)

§ 664.820 Who is eligible to receive services under Youth Opportunity Grants?

All individuals ages 14 through 21 who reside in the community identified in the grant are eligible to receive services under the grant. (WIA sec. 169(a).)

§ 664.830 How are performance measures for Youth Opportunity Grants determined?

(a) The Secretary negotiates performance measures, including appropriate performance levels for each indicator, with each selected grantee, based on information contained in the application.

(b) Performance indicators for the measures negotiated under Youth Opportunity Grants are the indicators of performance provided in WIA sections. 136 (b)(2)(A) and (B). (WIA sec. 169(f).)

PART 665—STATEWIDE WORKFORCE INVESTMENT ACTIVITIES UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

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Authority: Section 506(c), Pub. L. 105–220; 20 USC 9276(c)

Subpart A—General Description

§ 665.100 What are the Statewide workforce investment activities under title I of WIA?

Statewide workforce investment activities include Statewide employment and training activities for adults and dislocated workers, as described in WIA section 134(a), and Statewide youth activities, as described in WIA section 129 (b). They include both required and allowable activities. In accordance with the requirements of this subpart, the State may develop policies and strategies for use of Statewide workforce investment funds. Descriptions of these policies and strategies must be included in the State Plan. (WIA secs. 129(b); 134(a).)

§ 665.110 How are Statewide workforce investment activities funded?

(a) Except for the Statewide rapid response activities described in paragraph (c) of this section, Statewide workforce investment activities are

supported by funds reserved by the Governor under WIA section 128(a).

(b) Funds reserved by the Governor for Statewide workforce investment activities may be combined and used for any of the activities authorized in WIA secstions 129(b), 134(a)(2)(B) or 134(a)(3)(A) (which are described in §§ 665.200 and 665.210), regardless of whether the funds were allotted through the youth, adult, or dislocated worker funding streams.

(c) Funds for Statewide rapid response activities are reserved under WIA sec. 133(a)(2) and may be used to provide the activities authorized at sec. 134(a)(2)(A) (which are described in §§ 665.310 to 665.330 of this part). (WIA secs 129(b); 133(a)(2); 134(a)(2)(B); and 134(a)(3)(A).)

Subpart B—Required and Allowable Statewide Workforce Investment Activities

§ 665.200 What are required Statewide workforce investment activities?

Required Statewide workforce investment activities are:

(a) Required rapid response activities, as described in § 665.310 of this part;

(b) Disseminating:

(1) The State list of eligible providers of training services (including those providing non-traditional training services), for adults and dislocated workers;

(2) Information identifying eligible providers of on-the-job training and customized training;

(3) Performance and program cost information about these providers, as described in 20 CFR 663.540; and

(4) A list of eligible providers of youth activities as described in WIA section 123;

(c) Conducting evaluations, under WIA section 136(e), of workforce investment activities for adults, dislocated workers and youth, in order to establish and promote methods for continuously improving such activities to achieve high-level performance within, and high-level outcomes from, the Statewide workforce investment system. Such evaluations must be conducted in coordination with local boards in the State and, to the maximum extent practicable, in coordination with Federal evaluations carried out under WIA section 172.

(d) Providing incentive grants:

(1) To local areas for regional cooperation among local boards (including local boards for a designated region, as described in 20 CFR 661.290);

(2) For local coordination of activities carried out under WIA; and

(3) For exemplary performance by local areas on the performance measures.

(e) Providing technical assistance to local areas that fail to meet local performance measures.

(f) Assisting in the establishment and operation of One-Stop delivery systems, in accordance with the strategy described in the State workforce investment plan. [WIA sec. 112(b)(14).]

(g) Providing additional assistance to local areas that have high concentrations of eligible youth.

(h) Operating a fiscal and management accountability information system, based on guidelines established by the Secretary after consultation with the Governors, chief elected officials, and One-Stop partners, as required by WIA section 136(f). (WIA secs. 129(b)(2) and 134(a)(2).)

§ 665.210 What are allowable Statewide workforce investment activities?

Allowable Statewide workforce investment activities include:

(a) State administration of the adult, dislocated worker and youth workforce investment activities, consistent with the five percent administrative cost limitation at 20 CFR 667.210(a)(1).

(b) Providing capacity building and technical assistance to local areas, including Local Boards, One-Stop operators, One-Stop partners, and eligible providers, which may include:

(1) Staff development and training; and

(2) The development of exemplary program activities.

(c) Conducting research and demonstrations.

(d) Establishing and implementing innovative incumbent worker training programs, which may include an employer loan program to assist in skills upgrading, and programs targeted to empowerment zones and enterprise communities.

(e) Providing support to local areas for the identification of eligible training providers.

(f) Implementing innovative programs for displaced homemakers, and programs to increase the number of individuals trained for and placed in non-traditional employment.

(g) Carrying out adult and dislocated worker employment and training activities as the State determines are necessary to assist local areas in carrying out local employment and training activities.

(h) Carrying out youth activities Statewide.

(i) Preparation and submission to the Secretary of the annual performance progress report as described in 20 CFR 667.300(e). (WIA secs. 129(b)(3) and 134(a)(3).)

§ 665.220 Who is an ''incumbent worker'' for purposes of Statewide workforce investment activities?

States may establish policies and definitions to determine which workers are eligible for incumbent worker services under this subpart. An incumbent worker is an individual who is employed, but an incumbent worker does not necessarily have to meet the eligibility requirements for intensive and training services for employed adults and dislocated workers at 20 CRF 663.220(a)(2) and 663.310. (WIA sec. 134(a)(3)(A)(iv)(I).)

Subpart C—Rapid Response Activities

§ 665.300 What are rapid response activities and who is responsible for providing them?

(a) Rapid response activities are described in §§ 665.310 through 665.330 of this part. They encompass the activities necessary to plan and deliver services to enable dislocated workers to transition to new employment as quickly as possible, following either a permanent closure or mass layoff, or a natural or other disaster resulting in a mass job dislocation.

(b) The State is responsible for providing rapid response activities. Rapid response is a required activity carried out in local areas by the State, or an entity designated by the State, in conjunction with the Local Board and chief elected officials. The State must establish methods by which to provide additional assistance to local areas that experience disasters, mass layoffs, plant closings, or other dislocation events when such events substantially increase the number of unemployed individuals.

(c) States must establish a rapid response dislocated worker unit to carry out Statewide rapid response activities. (WIA secs. 101(38), 112(b)(17)(A)(ii) and 134(a)(2)(A).)

§ 665.310 What rapid response activities are required?

Rapid response activities must include:

(a) On-site contact with the employer, representatives of the affected workers, and the local community, which may include an assessment of the:

(1) Layoff plans and schedule of the employer;

(2) Potential for averting the layoff(s) in consultation with State or local economic development agencies, including private sector economic development entities;

(3) Background and probable assistance needs of the affected workers;

(4) Reemployment prospects for workers in the local community; and

(5) Available resources to meet the short and long-term assistance needs of the affected workers;

(b) The provision of information and access to unemployment compensation benefits, comprehensive One-Stop system services, and employment and training activities, including information on the Trade Adjustment Assistance program and the NAFTA–TAA program;

(c) The provision of guidance and/or financial assistance in establishing a labor-management committee voluntarily agreed to by labor and management, or a workforce transition committee comprised of representatives of the employer, the affected workers and the local community. The committee may devise and oversee an implementation strategy that responds to the reemployment needs of the workers. The assistance to this committee may include:

(1) The provision of training and technical assistance to members of the committee;

(2) Funding the operating costs of a committee to enable it to provide advice and assistance in carrying out rapid response activities and in the design and delivery of WIA-authorized services to affected workers. Typically, such support will last no longer than six months; and

(3) Providing a list of potential candidates to serve as a neutral chairperson of the committee.

(d) The provision of emergency assistance adapted to the particular closing, layoff or disaster.

(e) The provision of assistance to the local board and chief elected official(s) to develop a coordinated response to the dislocation event and, as needed, obtain access to State economic development assistance. Such coordinated response may include the development of an application for National Emergency Grant under 20 CFR part 671. (WIA secs. 101(38) and 134(a)(2)(A).)

§ 665.320 May other activities be undertaken as part of rapid response?

Yes. A State or designated entity may provide additional rapid response activities in addition to the activities required to be provided under § 665.310. In order to provide effective rapid response upon notification of a permanent closure or mass layoff, or a natural or other disaster resulting in a mass job dislocation, the State or designated entity may:

(a) In conjunction, with other appropriate Federal, State and Local agencies and officials, employer associations, technical councils or other industry business councils, and labor organizations:

(1) Develop prospective strategies for addressing dislocation events, that ensure rapid access to the broad range of allowable assistance;

(2) Identify strategies for the aversion of layoffs; and

(3) Develop and maintain mechanisms for the regular exchange of information relating to potential dislocations, available adjustment assistance, and the effectiveness of rapid response strategies.

(b) In collaboration with the appropriate State agency(ies), collect and analyze information related to economic dislocations, including potential closings and layoffs, and all available resources in the State for dislocated workers in order to provide an adequate basis for effective program management, review and evaluation of rapid response and layoff aversion efforts in the State.

(c) Participate in capacity building activities, including providing information about innovative and successful strategies for serving dislocated workers, with local areas serving smaller layoffs.

(d) Assist in devising and overseeing strategies for:

(1) Layoff aversion, such as prefeasibility studies of avoiding a plant closure through an option for a company or group, including the workers, to purchase the plant or company and continue it in operation;

(2) Incumbent worker training, including employer loan programs for employee skill upgrading; and

(3) Linkages with economic development activities at the Federal, State and local levels, including Federal Department of Commerce programs and available State and local business retention and recruitment activities.

§ 665.330 Are the NAFTA/TAA requirements for rapid response also required activities?

The Governor must ensure that rapid response activities under WIA are made available to workers who, under the NAFTA Worker Security Act (Pub. L. 103–182), are members of a group of workers (including those in any agricultural firm or subdivision of an agricultural firm) for which the Governor has made a finding that:

(a) The sales or production, or both, of such firm or subdivision have decreased absolutely, and

(b)(1) Imports from Mexico or Canada of articles like or directly competitive with those produced by such firm or subdivision have increased; or

(2) There has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles which are produced by the firm or subdivision.

PART 666—PERFORMANCE ACCOUNTABILITY UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart A—State Measures of Performance

Sec.

666.100 What performance indicators must be included in a State's plan?
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Authority: Sec. 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c).

Subpart A—State Measures of Performance

§ 666.100 What performance indicators must be included in a State's plan?

(a) All States submitting a State Plan under WIA title I, subtitle B must propose expected levels of performance for each of the core indicators of performance for the adult, dislocated worker and youth programs, respectively and the two customer satisfaction indicators.

(1) For the Adult program, these indicators are:

(i) Entry into unsubsidized employment;

(ii) Retention in unsubsidized employment six months after entry into the employment;

(iii) Earnings received in unsubsidized employment six months after entry into the employment; and

(iv) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter unsubsidized employment.

(2) For the Dislocated Worker program, these indicators are:

(i) Entry into unsubsidized employment;

(ii) Retention in unsubsidized employment six months after entry into the employment;

(iii) Earnings received in unsubsidized employment six months after entry into the employment; and

(iv) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter unsubsidized employment.

(3) For the Youth program, these indicators are:

(i) For eligible youth aged 14 through 18:

(A) Attainment of basic skills, and, as appropriate, work readiness or occupational skills;

(B) Attainment of secondary school diplomas and their recognized equivalents; and

(C) Placement and retention in postsecondary education, advanced training, military service, employment, or qualified apprenticeships.

(ii) For eligible youth aged 19 through 21:

(A) Entry into unsubsidized employment;

(B) Retention in unsubsidized employment six months after entry into the employment;

(C) Earnings received in unsubsidized employment six months after entry into the employment; and

(D) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter post-secondary education, advanced training, or unsubsidized employment.

(4) A single customer satisfaction measure for employers and a single customer satisfaction indicator for participants must be used for the WIA title I, subtitle B programs for adults, dislocated workers and youth. (WIA sec. 136(b)(2).)

(b) After consultation with the representatives identified in WIA secs. 136(i) and 502(b), the Departments of Labor and Education will issue definitions for the performance indicators established under title I and title II of WIA. (WIA secs. 136(b), (f) and (i).)

§ 666.110 May a Governor require additional indicators of performance?

Yes. Governors may develop additional indicators of performance for adults, youth and dislocated worker activities. These indicators must be included in the State Plan. (WIA sec. 136(b)(2)(C).)

§ 666.120 What are the procedures for negotiating annual levels of performance?

(a) The Department issues instructions on the specific information that must accompany the State Plan and that is used to review the State's expected levels of performance. The instructions may require that levels of performance for years two and three be expressed as a percentage improvement over the immediately preceding year's actual performance, consistent with the objective of continuous improvement.

(b) States must submit expected levels of performance for the required indicators for each of the first three program years covered by the Plan.

(c) The Secretary and the Governor must reach agreement on levels of performance for each core indicator and the customer satisfaction indicators. In negotiating these levels, the following must be taken into account:

(1) The expected levels of performance identified in the State Plan;

(2) The extent to which the levels of performance for each core indicator assist in achieving high customer satisfaction;

(3) The extent to which the levels of performance promote continuous improvement and ensure optimal return on the investment of Federal funds; and

(4) How the levels compare with those of other States, taking into account factors including differences in economic conditions, participant characteristics, and the proposed service mix and strategies.

(d) The levels of performance agreed to under paragraph (c) of this section will be the State's adjusted levels of performance for the first three years of the State Plan. These levels will used to determine whether sanctions will be applied or incentive grant funds will be awarded.

(e) Before the fourth year of the State Plan, the Secretary and the Governor must reach agreement on levels of performance for each core indicator and the customer satisfaction indicators for the fourth and fifth years covered by the plan. In negotiating these levels, the factors listed in paragraph (c) of this section must be taken into account.

(f) The levels of performance agreed to under paragraph (e) of this section will be the State adjusted levels of performance for the fourth and fifth years of the plan and must be incorporated into the State Plan.

(g) Levels of performance for the additional indicators developed by the Governor are considered to be State adjusted levels of performance, but are not part of the negotiations described in paragraphs (c) and (e) of this section. (WIA sec. 136(b)(3).)

(h) State adjusted levels of performance may be revised in accordance with § 666.130 of this subpart.

§ 666.130 Under what conditions may a State or DOL request revisions to the State adjusted levels of performance?

(a) The DOL guidelines describe when and under what circumstances a Governor may request revisions to negotiated levels. These circumstances include significant changes in economic conditions, in the characteristics of participants entering the program, or in the services to be provided from when the initial plan was submitted and approved. (WIA sec. 136(b)(3)(A)(vi).)

(b) The guidelines will establish the circumstances under which a State will be required to submit revisions under specified circumstances.

§ 666.140 Which individuals receiving services are included in the core indicators of performance?

(a) The core indicators of performance apply to all individuals who are registered under 20 CFR 663.105 and 664.215 for the adult, dislocated worker and youth programs, except for those adults and dislocated workers who participate exclusively in self-service or

informational activities. (WIA sec. 136(b)(2)(A).)

(b) For registered participants, a standardized record that includes appropriate performance information must be maintained in accordance with WIA section 185(a)(3).

§ 666.150 What responsibility do States have to use quarterly wage record information for performance accountability?

(a) States must, consistent with State law, use quarterly wage record information in measuring the progress on State and local performance measures.

(b) The State must include in the State Plan a description of the State's performance accountability system, and a description of the State's strategy for using quarterly wage record information to measure the progress on State and local performance measures. The description must identify the entities that may have access to quarterly wage record information for this purpose.

(c) ''Quarterly wage record information'' means information regarding wages paid to an individual, the social security account number (or numbers, if more than one) of the individual and the name, address, State, and (when known) the Federal employer identification number of the employer paying the wages to the individual. (WIA sec. 136(f)(2).)

Subpart B—Incentives and Sanctions for State Performance

§ 666.200 Under what circumstances is a State eligible for an Incentive Grant?

A State is eligible to apply for an Incentive Grant if its performance for the immediately preceding year exceeds:

(a) The State's adjusted levels of performance for the required core indicators for the adult, dislocated worker and youth programs under title I of WIA as well as the customer satisfaction indicators for WIA title I programs;

(b) The adjusted levels of performance included in plans submitted to the Department of Education for title II Adult Education and Literacy programs; and

(c) The adjusted levels of performance under title I of the Carl D. Perkins Vocational and Technical Education Act (20 U.S.C. 2301 *et seq.*). (WIA sec. 503.)

§ 666.205 What are the time frames under which States submit performance progress reports and apply for incentive grants?

(a) State performance progress reports must be filed by the due date established in reporting instructions issued by the Department.

(b) Based upon the reports filed under paragraph (a) of this section, the Secretary will determine the amount of funds available, under WIA title I, to each eligible State for incentive grants, in accordance with the criteria of § 666.230. The award amounts for each eligible State will be published by the Secretary, after consultation with the Secretary of Education, within ninety (90) days after the due date for performance progress reports established under paragraph (a) of this section.

(c) Within forty-five (45) days of the publication of award amounts under paragraph (b) of this section, States may apply for incentive grants in accordance with the requirements of § 666.220.

§ 666.210 How may Incentive Grant funds be used?

Incentive grant funds are awarded to States to carry out any one or more innovative programs under titles I or II of WIA or the Carl D. Perkins Vocational and Technical Education Act, regardless of which Act is the source of the incentive funds. (WIA section 503(a).)

§ 666.220 What information must be included in State Board's application for an Incentive Grant?

(a) The Secretary of Labor, after consultation with the Secretary of Education, will issue instructions annually which will include the amount of funds available to be awarded for each State and provide instructions for submitting applications for an Incentive Grant.

(b) Each State desiring an incentive grant must submit to the Secretary an application, developed by the State Board, containing the following assurances:

(1) The State legislature was consulted regarding the development of the application.

(2) The application was approved by the Governor, the eligible agency (as defined in WIA section 203), and the State agency responsible for vocational and technical programs under the Carl D. Perkins Vocational and Technical Education Act.

(3) The State exceeded the State adjusted levels of performance for title I, the adjusted levels of performance under title II and the adjusted levels for vocational and technical programs under the Carl D. Perkins Vocational and Technical Education Act. (WIA section 503(b).)

§ 666.230 How does the Department determine the amounts for Incentive Grant awards?

(a) DOL determines the total amount to be allocated from funds available under WIA section 174(b) for Incentive Grants taking into consideration such factors as:

(1) The availability of funds under section 174(b) for technical assistance, demonstration and pilot projects, evaluations, and Incentive Grants and the needs for these activities;

(2) The number of States that are eligible for Incentive Grants and their relative program formula allocations under title I;

(3) The availability of funds under WIA section 136(g)(2) resulting from funds withheld for poor performance by States; and

(4) The range of awards established in WIA section 503(c).

(b) The award amount for eligible States will be published by the Secretary of Labor, after consultation with the Secretary of Education, within 90 days after the due date established under § 666.205(a) of the latest State performance progress report providing the annual information needed to determine State eligibility.

(c) In determining the amount available to an eligible State, the Secretary, with the Secretary of Education, may consider such factors as:

(1) The relative allocations of the eligible State compared to other States;

(2) The extent to which the adjusted levels of performance were exceeded;

(3) Performance improvement relative to previous years;

(4) Changes in economic conditions, participant characteristics and proposed service design since the adjusted levels of performance were negotiated;

(5) The eligible State's relative performance for each of the indicators compared to other States; and

(6) The performance on those indicators considered most important in terms of accomplishing national goals established by each of the respective Secretaries.

§ 666.240 Under what circumstances may a sanction be applied to a State that fails to achieve adjusted levels of performance for title I?

(a) If a State fails to meet the adjusted levels of performance agreed to under § 666.120 for core indicators of performance or customer satisfaction indicators for the adult, dislocated worker or youth program under title I of WIA, the Secretary must, upon request, provide technical assistance, as authorized under WIA sections 136(g) and 170.

(b) If a State fails to meet the adjusted levels of performance for core indicators of performance or customer satisfaction indicators for the same program in two successive years, the amount of the succeeding year's allocation for the applicable program may be reduced by up to five percent.

(c) The exact amount of any allocation reduction will be based upon the degree of failure to meet the adjusted levels of performance for core indicators. In making a determination of the amount, if any, of such a sanction, the Department may consider factors such as:

(1) The State's performance relative to other States;

(2) Improvement efforts underway;

(3) Incremental improvement on the performance measures;

(4) Technical assistance previously provided;

(5) Changes in economic conditions and program design;

(6) The characteristics of participants served compared to the participant characteristics described in the State Plan; and

(7) Performance on other core indicators of performance and customer satisfaction indicators for that program. (WIA section 136(g).)

(d) In accordance with 20 CFR 667.300(e), a State grant may be reduced for failure to submit an annual performance progress report.

(e) A State may request review of a sanction imposed by the Department in accordance with the provisions of 20 CFR 667.800.

Subpart C—Local Measures of Performance

§ 666.300 What performance indicators apply to local areas?

(a) Each local workforce investment area in a State is subject to the same core indicators of performance and the customer satisfaction indicators that apply to the State under § 666.100(a).

(b) In addition to the indicators described in paragraph (a) of this section, under § 666.110 of this part, the Governor may apply additional indicators of performance to local areas in the State. (WIA sec. 136(c)(1).)

§ 666.310 What levels of performance apply to the indicators of performance in local areas?

(a) The Local Board and the chief elected official must negotiate with the Governor and reach agreement on the local levels of performance for each indicator identified in § 666.300 of this subpart. The levels must be based on the State adjusted levels of performance established under § 666.120 and take into account the factors described in paragraph (b) of this section.

(b) In determining the appropriate local levels of performance, the Governor, Local Board and chief elected official must take into account specific economic, demographic and other characteristics of the populations to be served in the local area.

(c) The performance levels agreed to under paragraph (a) of this section must be incorporated in the local plan. (WIA secs. 118(b)(3) and 136(c).)

Subpart D—Incentives and Sanctions for Local Performance

§ 666.400 Under what circumstances are local areas eligible for State Incentive Grants?

(a) States must use a portion of the funds reserved for Statewide workforce investment activities under WIA sections 128(a) and 133(a)(1) to provide Incentive Grants to local areas for regional cooperation among local boards (including local boards for a designated region as described in WIA section 116(c)), for local coordination of activities carried out under this Act, and for exemplary performance on the local performance measures established under subpart C of this part.

(b) The amount of funds used for Incentive Grants under paragraph (a) of this section and the criteria used for determining exemplary local performance levels to qualify for the incentive grants are determined by the Governor. (WIA sec. 134(a)(2)(B)(iii).)

§ 666.410 How may local incentive awards be used?

The local incentive grant funds may be used for any activities allowed under WIA title I–B.

§ 666.420 Under what circumstances may a sanction be applied to local areas for poor performance?

(a) If a local area fails to meet the levels of performance agreed to under § 666.310 for the core indicators of performance or customer satisfaction indicators for a program in any program year, technical assistance must be provided. The technical assistance must be provided by the Governor with funds reserved for Statewide workforce investment activities under WIA sections 128(a) and 133(a)(1), or, upon the Governor's request, by the Secretary. The technical assistance may include the development of a performance improvement plan, a modified local plan, or other actions designed to assist the local area in improving performance.

(b) If a local area fails to meet the levels of performance agreed to under § 666.310 for the core indicators of performance or customer satisfaction indicators for a program for two consecutive program years, the Governor must take corrective actions. The corrective actions may include the development of a reorganization plan under which the Governor:

(1) Requires the appointment and certification of a new Local Board;

(2) Prohibits the use of particular service providers or One-Stop partners that have been identified as achieving poor levels of performance; or

(3) Requires other appropriate measures designed to improve the performance of the local area.

(c) A local area may appeal to the Governor to rescind or revise a reorganization plan imposed under paragraph (b) of this section not later than thirty (30) days after receiving notice of the plan. The Governor must make a final decision within 30 days after receipt of the appeal. The Governor's final decision may be appealed by the Local Board to the Secretary under 20 CFR 667.650(b) not later than thirty (30) days after the local areas receives the decision. The decision by the Governor to impose a reorganization plan becomes effective at the time it is issued, and remains effective unless the Secretary rescinds or revises the reorganization plan. Upon receipt of the appeal from the local area, the Secretary must make a final decision within thirty (30) days. (WIA sec. 136(h).)

PART 667—ADMINISTRATIVE PROVISIONS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart A—Funding

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667.100 When do Workforce Investment Act grant funds become available?
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Authority: Sec. 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c).

Subpart A—Funding

§ 667.100 When do Workforce Investment Act grant funds become available?

(a) *Program year.* Except as provided in paragraph (b) of this section, fiscal year appropriations for programs and activities carried out under title I of WIA are available for obligation on the basis of a program year. A program year begins on July 1 in the fiscal year for which the appropriation is made and ends on June 30 of the following year.

(b) *Youth fund availability.* Fiscal year appropriations for a program year's youth activities, authorized under chapter 4, subtitle B, title I of WIA, may be made available for obligation beginning on April 1 of the fiscal year for which the appropriation is made.

§ 667.105 What award document authorizes the expenditure of Workforce Investment Act funds under title I of the Act?

(a) *Agreement.* All WIA title I funds that are awarded by grant, contract or cooperative agreement are issued under an agreement between the Grant Officer/Contracting Officer and the recipient. The agreement describes the terms and conditions applicable to the award of WIA title I funds.

(b) *Grant funds awarded to States.* Under the Governor/Secretary Agreement described in § 667.110, each program year, the grant agreement described in paragraph (a) of this section will be executed and signed by the Governor or the Governor's designated representative and Secretary or the Grant Officer. The grant agreement and associated Notices of Obligation are the basis for Federal obligation of funds allotted to the States in accordance with WIA sections 127(b) and 132(b) for each program year.

(c) *Indian and Native American Programs.* Awards of grants, contracts or cooperative agreements for the WIA Indian and Native American program will be made to eligible entities on a competitive basis every two program years for a two-year period, in accordance with the provisions of 20 CFR part 668. An award for the succeeding two-year period may be made to the same recipient on a non-competitive basis if the recipient:

(1) Has performed satisfactorily; and

(2) Submits a satisfactory two-year program plan for the succeeding two-year grant, contract or agreement period.

(d) *Migrant and Seasonal Farmworker Programs.* (1) Awards of grants or contracts for the Migrant and Seasonal Farmworker program will be made to eligible entities on a competitive basis every two program years for a two-year

period, in accordance with the provisions of 20 CFR part 669. An award for the succeeding two-year period may be made to the same recipient if the recipient:

(i) Has performed satisfactorily; and (ii) Submits a satisfactory two-year program plan for the succeeding two-year period.

(2) A grant or contract may be renewed under the authority of paragraph (d)(1) of this section no more than once during any four-year period for any single recipient.

(e) *Job Corps.* (1) Awards of contracts will be made on a competitive basis between the Contracting Officer and eligible entities to operate contract centers and provide operational support services.

(2) The Secretary may enter into interagency agreements with Federal agencies for funding, establishment, and operation of Civilian Conservation Centers for Job Corps programs.

(f) *Youth Opportunity Grants.* Awards of grants for Youth Opportunity programs will be made to eligible Local Boards and eligible entities for a one-year period. The grants may be renewed for each of the four succeeding years based on criteria that include successful performance.

(g) *Awards under WIA secs. 171 and 172.* (1) Awards of grants, contracts or cooperative agreements will be made to eligible entities for programs or activities authorized under WIA sections 171 or 172. These funds are for:

(i) Demonstration;

(ii) Pilot;

(iii) Multi-service;

(iv) Research;

(v) Multi-State projects; and

(vi) Evaluations

(2) Grants and contracts under paragraphs (g)(1)(i) and (ii) of this section will be awarded on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private entities that provide a portion of the funding.

(3) Contracts and grants under paragraphs (g)(1)(iii), (iv), and (v) of this section in amounts that exceed $100,000 will be awarded on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of the assistance under the grant or contract for the project.

(4) Grants or contracts for carrying out projects in paragraphs (g)(1)(iii), (iv), and (v) of this section may not be awarded to the same organization for more than three consecutive years, unless the project is competitively reevaluated within that period.

(5) Entities with nationally recognized expertise in the methods, techniques and knowledge of workforce investment activities will be provided priority in awarding contracts or grants for the projects under paragraphs (g)(1)(iii), (iv), and (v) of this section.

(6) A peer review process will be used for projects under paragraphs (g)(1)(iii), (iv), and (v) of this section for grants that exceed $500,000, and to designate exemplary and promising programs.

(h) *Termination.* Each grant terminates when the period of fund availability has expired. The grant must be closed in accordance with the closeout provisions at 29 CFR 95.71 or 97.50, as appropriate.

§ 667.107 What is the period of availability for expenditure of WIA funds?

(a) *Grant funds expended by States.* Funds allotted to States under WIA sections 127(b) and 132(b), for any program year are available for expenditure by the State receiving the funds only during that program year and the two succeeding program years.

(b) *Grant funds expended by local areas.* (1) Funds allocated by a State to a local area under WIA section 128(b) and 133(b), for any program year are available for expenditure only during that program year and the succeeding program year.

(2) Funds which are not expended by a local area in the two-year period described in paragraph (b)(1) of this section, must be returned to the State. Funds so returned are available for expenditure by State and local recipients and subrecipients only during the third program year of availability. These funds may:

(i) Be used for Statewide projects, or

(ii) Be distributed to other local areas which had fully expended their allocation of funds for the same program year within the two-year period.

(c) *Job Corps.* Funds obligated for any program year for any Job Corps activity carried out under title I, subtitle C, of WIA, may be expended during that program year and the two succeeding program years.

(d) *Funds awarded under WIA section 171 and 172.* (a) Funds obligated for any program year for a program or activity authorized under section 171 or 172 of WIA remain available until expended.

(e) *Other programs under title I of WIA.* For all other grants, contracts and cooperative agreements issued under title I of WIA the period of availability for expenditure is set in the terms and conditions of the award document.

§ 667.110 What is the Governor/Secretary Agreement?

(a) To establish a continuing relationship under the Act, the Governor and the Secretary will enter into a Governor/Secretary Agreement. The Agreement will consist of a statement assuring that the State will comply with:

(1) The Workforce Investment Act and all applicable rules and regulations, and

(2) The Wagner-Peyser Act and all applicable rules and regulations.

(b) The Governor/Secretary Agreement may be modified, revised or terminated at any time, upon the agreement of both parties.

§ 667.120 What planning information must a State submit in order to receive a formula grant?

Each State seeking financial assistance under WIA sections 127 (youth) or 132 (adults and dislocated workers) or under the Wagner-Peyser Act must submit a single State Plan. The requirements for the plan content and the plan review process are described in WIA section 112, Wagner-Peyser section 8, and 20 CFR § 652.6, 652.7, and 661.220.

§ 667. 130 How are WIA title I formula funds allocated to local workforce investment areas?

(a) *General.* The Governor must allocate WIA formula funds allotted for services to youth, adults and dislocated workers in accordance with WIA sections 128 and 133, and this section.

(1) State Boards must assist Governors in the development of any discretionary within-State allocation formulas. (WIA sec. 111(d)(5).)

(2) Within-State allocations must be made:

(i) In accordance with the allocation formulas contained in WIA section 128(b) and 133(b) and in the State workforce investment plan, and (ii) After consultation with chief elected officials in each of the workforce investment areas.

(b) *State Reserve.* (1) Of the WIA formula funds allotted for services to youth, adults and dislocated workers, the Governor must reserve funds from each of these sources for Statewide workforce investment activities. In making these reservations, the Governor may reserve up to fifteen (15) percent from each of these sources. Funds reserved under this paragraph may be combined and spent on Statewide employment and training activities, for adults and dislocated workers, and Statewide youth activities, as described in 20 CFR 665.200 and 665.210, without regard to the funding source of the reserved funds.

(2) The Governor must reserve a portion of the dislocated worker funds for Statewide rapid response activities, as described in WIA section 134(a)(2)(A) and 20 CFR 665.310 through 665.330. In making this reservation, the Governor may reserve up to twenty-five (25) percent of the dislocated worker funds.

(c) *Youth allocation formula.* (1) Unless the Governor elects to distribute funds in accordance with the discretionary allocation formula described in paragraph (c)(2) of this section, the remainder of youth funds not reserved under paragraph (b)(1) of this section must be allocated:

(i) 33⅓ percent on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each workforce investment area, compared to the total number of unemployed individuals in all areas of substantial unemployment in the State;

(ii) 33⅓ percent on the basis of the relative excess number of unemployed individuals in each workforce investment area, compared to the total excess number of unemployed individuals in the State; and

(iii) 33⅓ percent on the basis of the relative number of disadvantaged youth in each workforce investment area, compared to the total number of disadvantaged youth in the State. [WIA sec. 128(b)(2)(A)(i)]

(2) *Discretionary youth allocation formula.* In lieu of making the formula allocation described in paragraph (c)(1) of this section, the State may allocate youth funds under a discretionary formula. Under that formula, the State must allocate a minimum of 70 percent of youth funds not reserved under paragraph (b)(1) of this section on the basis of the formula in paragraph (c)(1) of this section, and may allocate up to 30 percent on the basis of a formula that:

(i) Incorporates additional factors (other than the factors described in pargraph (c)(1) of this section) relating to:

(A) Excess youth poverty in urban, rural and suburban local areas; and

(B) Excess unemployment above the State average in urban, rural and suburban local areas; and

(ii) Was developed by the State Board and approved by the Secretary of Labor as part of the State workforce investment plan. (WIA sec. 128(b)(3).)

(d) *Adult allocation formula.* (1) Unless the Governor elects to distribute funds in accordance with the discretionary allocation formula described in paragraph (d)(2) of this section, the remainder of adult funds not reserved under paragraph (b)(1) of this section must be allocated:

(i) 33⅓ percent on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each workforce investment area, compared to the total number of unemployed individuals in areas of substantial unemployment in the State;

(ii) 33⅓ percent on the basis of the relative excess number of unemployed individuals in each workforce investment area, compared to the total excess number of unemployed individuals in the State; and

(iii) 33⅓ percent on the basis of the relative number of disadvantaged adults in each workforce investment area, compared to the total number of disadvantaged adults in the State. (WIA sec. 133(b)(2)(A)(i))

(2) *Discretionary adult allocation formula.* In lieu of making the formula allocation described in paragraph (d)(1)of this section, the State may allocate adult funds under an discretionary formula. Under that formula, the State must allocate a minimum of 70 percent of adult funds on the basis of such formula in paragraph (d)(1) of this section, and may allocate up to 30 percent on the basis of a formula that:

(i) Incorporates additional factors (other than the factors described in paragraph (d)(1) of this section) relating to:

(A) Excess poverty in urban, rural and suburban local areas; and

(B) Excess unemployment above the State average in urban, rural and suburban local areas; and

(ii) Was developed by the State Board and approved by the Secretary of Labor as part of the State workforce investment plan. (WIA sec. 133(b)(3).)

(e) *Dislocated worker allocation formula.* (1) The remainder of dislocated worker funds not reserved under paragraph (b)(1) or (b)(2) of this section must be allocated on the basis of a formula prescribed by the Governor that distributes funds in a manner that addresses the State's worker readjustment assistance needs. Funds so distributed must not be less than 60 percent of the State's formula allotment.

(2)(i) The Governor's dislocated worker formula must use the most appropriate information available to the Governor, including information on:

(A) Insured unemployment data,

(B) Unemployment concentrations,

(C) Plant closings and mass layoff data,

(D) Declining industries data,

(E) Farmer-rancher economic hardship data, and

(F) Long-term unemployment data.

(ii) The State Plan must describe the data used for the formula and the weights assigned, and explain the State's decision to use other information or to omit any of the information sources set forth in paragraph (e)(2)(i) of this section.

(3) The Governor may not amend the dislocated worker formula more than once for any program year.

(4)(i) Dislocated worker funds initially reserved by the Governor for Statewide rapid response activities in accordance with paragraph (b)(2) of this section may be:

(A) Distributed to local areas, and (B) Used to operate projects in local areas in accordance with the requirements of WIA section 134(a)(2)(A) and 20 CFR 665.310 through 665.330.

(ii) The State Plan must describe the procedures for any distribution to local areas, including the timing and process for determining whether a distribution will take place.

§ 667.140 Does a Local Board have the authority to transfer funds between programs?

(a) A Local Board may transfer up to 20 percent of a program year allocation for adult employment and training activities, and up to 20 percent of a program year allocation for dislocated worker employment and training activities between the two programs.

(b) Before making any such transfer, a Local Board must obtain the Governor's approval.

(c) Local Boards may not transfer funds to or from the youth program.

§ 667.150 What reallotment procedures does the Secretary use?

(a) The first reallotment of funds among States will occur during PY 2001 based on obligations in PY 2000.

(b) The Secretary determines, during the first quarter of the program year, whether a State has obligated its required level of at least 80 percent of the funds allotted under WIA sections 127 and 132 for programs serving youth, adults, and dislocated workers for the prior year as separately determined for each of the three funding streams. Unobligated balances are determined based on allotments adjusted for any allowable transfer between the adult and dislocated worker funding streams. The amount to be recaptured from each State for reallotment, if any, is based on State obligations of the funds allotted to each State under WIA sections 127 and 132 for programs serving youth, adults, or dislocated workers, less any amount reserved (up to 5 percent at the State level and up to 10 percent at the local

level) for the costs of administration. This amount, if any, is separately determined for each funding stream.

(c) The Secretary reallots youth, adult and dislocated worker funds among eligible States in accordance with the provisions of WIA sections 127(c) and 132(c), respectively. To be eligible to receive a reallotment of youth, adult, or dislocated worker funds under the reallotment procedures, a State must have obligated at least 80 percent of the prior program year allotment, less any amount reserved for the costs of administration of youth, adult, or dislocated worker funds. A State's eligibility to receive a reallotment is separately determined for each funding stream.

§ 667.160 What reallocation procedures must the Governors use?

(a) The Governor may reallocate youth, adult, and dislocated worker funds among local areas within the State in accordance with the provisions of sections 128(c) and 133(c) of the Act. If the Governor chooses to reallocate funds, the provisions in paragraphs (b) and (c) of this section apply.

(b) For the youth, adult and dislocated worker programs, the amount to be recaptured from each local area for purposes of reallocation, if any, must be based on the amount by which the prior year's unobligated balance of allocated funds exceeds 20 percent of that year's allocation for the program, less any amount reserved (up to 10 percent) for the costs of administration. Unobligated balances must be determined based on allocations adjusted for any allowable transfer between funding streams. This amount, if any, must be separately determined for each funding stream.

(c) To be eligible to receive youth, adult or dislocated worker funds under the reallocation procedures, a local area must have obligated at least 80 percent of the prior program year's allocation, less any amount reserved (up to 10 percent) for the costs of administration, for youth, adult, or dislocated worker activities, as separately determined. A local area's eligibility to receive a reallocation must be separately determined for each funding stream.

§ 667.170 What responsibility review does the Department conduct for awards made under WIA title I, subtitle D?

(a) Before final selection as a potential grantee, the Department conducts a review of the available records to assess the organization's overall responsibility to administer Federal funds. As part of this review, the Department may consider any information that has come to its attention and will consider the organization's history with regard to the management of other grants, including DOL grants. The failure to meet any one responsibility test, except for those listed in paragraphs (a)(1) and (a)(2) of this section, does not establish that the organization is not responsible unless the failure is substantial or persistent (for two or more consecutive years). The responsibility tests include:

(1) The organization's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or that there has been failure to comply with an approved repayment plan;

(2) Established fraud or criminal activity of a significant nature within the organization.

(3) Serious administrative deficiencies identified by the Department, such as failure to maintain a financial management system as required by Federal regulations;

(4) Willful obstruction of the audit process;

(5) Failure to provide services to applicants as agreed to in a current or recent grant or to meet applicable performance standards;

(6) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, or other activities;

(7) Failure to return a grant closeout package or outstanding advances within 90 days of the grant expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted; final billings reflecting serious cost category or total budget cost overrun;

(8) Failure to submit required reports;

(9) Failure to properly report and dispose of government property as instructed by DOL;

(10) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand;

(11) Failure to ensure that a subrecipient complies with its OMB Circular A–133 audit requirements specified at § 667.200(b);

(12) Failure to audit a subrecipient within the required period;

(13) Final disallowed costs in excess of five percent of the grant or contract award if, in the judgement of the grant officer, the disallowances are egregious findings and;

(14) Failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion.

(b) This responsibility review is independent of the competitive process. Applicants which are determined to be not responsible will not be selected as potential grantees irrespective of their standing in the competition.

Subpart B—Administrative Rules, Costs and Limitations

§ 667.200 What general fiscal and administrative rules apply to the use of WIA title I funds?

(a) *Uniform fiscal and administrative requirements.* (1) Except as provided in paragraphs (a)(3) through (6) of this section, State, local, and Indian tribal government organizations that receive grants or cooperative agreements under WIA title I must follow the common rule ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments'' which is codified at 29 CFR part 97.

(2) Except as provided in paragraphs (a)(3) through (6) of this section, institutions of higher education, hospitals, and other non-profit organizations must follow the common rule implementing OMB Circular A–110 which is codified at 29 CFR part 95.

(3) In addition to the requirements at 29 CFR 95.48 or 29 CFR 97.36(i) (as appropriate), all procurement contracts and other transactions between Local Boards and units of State or local governments must be conducted only on a cost reimbursement basis. No provision for profit is allowed. (WIA sec. 184(a)(3)(B).)

(4) In addition to the requirements at 29 CFR 95.42 or 29 CFR 97.36(b)(3) (as appropriate), which address codes of conduct and conflict of interest issues related to employees:

(i) A State Board member or a Local Board member or Youth Council member must neither cast a vote on, nor participate in, any decision-making capacity on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or a member of his immediate family.

(ii) Neither membership on the State Board, the Local Board or the Youth Council nor the receipt of WIA funds to provide training and related services, by itself, violates these conflict of interest provisions.

(5) The addition method, described at 29 CFR 95.24 or 29 CFR 97.25(g)(2) (as appropriate), must be used for the all program income earned under WIA title I grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the WIA program. However,

the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the WIA program.

(6) Any excess of revenue over costs incurred for services provided by a governmental or non-profit entity must be included in program income. (WIA sec. 195(7)(A) and (B).)

(7) On a fee-for-service basis, employers may use local area services, facilities, or equipment funded under title I of WIA to provide employment and training activities to incumbent workers:

(i) When the services, facilities, or equipment are not being used by eligible participants;

(ii) If their use does not affect the ability of eligible particpants to use the services, facilities, or equipment; and

(iii) If the income generated from such fees is used to carry out programs authorized under this title.

(b) *Audit requirements.* (1) All governmental and non-profit organizations must follow the audit requirements of OMB Circular A–133. These requirements are found at 29 CFR 97.26 for governmental organizations and at 29 CFR 95.26 for institutions of higher education, hospitals, and other non-profit organizations.

(2)(i) The Department is responsible for audits of commercial organizations which are direct recipients of Federal financial assistance under WIA title I.

(ii) Commercial organizations which are subrecipients under WIA title I and which expend more than the minimum level specified in OMB Circular A–133 ($300,000 as of April 15, 1999) must have either an organization-wide audit conducted in accordance with A–133 or a program specific financial and compliance audit.

(c) *Allowable costs/cost principles.* All recipients and subrecipients must follow the Federal allowable cost principles that apply to their kind of organizations. The DOL regulations at 29 CFR 95.27 and 29 CFR 97.22 identify the Federal principles for determining allowable costs which each kind of recipient and subrecipient must follow. The applicable Federal principles for each kind of recipient are described in paragraphs (c)(1) through (5) of this section; all recipients must comply with paragraph (c)(6) of this section. For those selected items of cost requiring prior approval, the authority to grant or deny approval is delegated to the Governor for programs funded under sections 127 or 132 of the Act.

(1) Allowable costs for State, local, and Indian tribal government organizations must be determined under OMB Circular A–87, ''Cost Principles for State, Local and Indian Tribal Governments.''

(2) Allowable costs for non-profit organizations must be determined under OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.''

(3) Allowable costs for institutions of higher education must be determined under OMB Circular A–21, ''Cost Principles for Educational Institutions.''

(4) Allowable costs for hospitals must be determined in accordance under appendix E of 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.''

(5) Allowable costs for commercial organizations and those non-profit organizations listed in Attachment C to OMB Circular A–122 must be determined under the provisions of the Federal Acquisition Regulation (FAR), at 48 CFR part 31.

(6) In addition to the allowable cost provisions identified above, the cost of information technology—computer hardware and software—will only be allowable under WIA title I grants when such computer technology is ''Year 2000 compliant.'' To meet this requirement, information technology must be able to accurately process date/time (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, and the years 1999 and 2000. The information technology must also be able to make leap year calculations. Furthermore, ''Year 2000 compliant'' information technology, when used in combination with other information technology, must accurately process date/time data if the other information technology properly exchanges date/time with it.

(d) *Government-wide debarment and suspension, and government-wide drug-free workplace requirements.* All WIA title I grant recipients and subrecipients must comply with the government-wide requirements for debarment and suspension, and the government-wide requirements for a drug-free workplace codified at 29 CFR part 98.

(e) *Restrictions on Lobbying.* All WIA title I grant recipients and subrecipients must comply with the restrictions on lobbying which are codified in the DOL regulations at 29 CFR part 93.

(f) *Nondiscrimination.* All WIA title I recipients, as the term is defined in 29 CFR 31.2(h), must comply with the nondiscrimination and equal opportunity provisions of WIA sec. 188 and its implementing regulations. Information on the handling of discrimination complaints by participants and other interested parties may be found at § 667.600(f) of this part.

(g) *Nepotism.* (1) No individual may be placed in a WIA employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual.

(2) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement must be followed.

§ 667.210 What administrative cost limits apply to Workforce Investment Act title I grants?

(a) Formula grants to States:

(1) As part of the 15 percent that a State may reserve for Statewide activities, the State may spend up to five percent (5%) of the amount allotted under sections 127(b)(1), 132(b)(1) and 132(b)(2) of the Act for the administrative costs of Statewide workforce investment activities.

(2) Local area expenditures for administrative purposes under WIA formula grants are limited to no more than ten percent (10%) of the amount allocated to the local area under sections 128(b) and 133(b) of the Act.

(3) Neither the five percent (5%) of the amount allotted that may be reserved for Statewide administrative costs nor the ten percent (10%) of the amount allotted that may be reserved for local administrative costs need to be allocated back to the individual funding streams.

(b) Limits on administrative costs for programs operated under subtitle D of title I will be identified in the grant or contract award document.

(c) Although administrative in nature, costs of information technology—computer hardware and software—needed for tracking and monitoring of WIA program, participant, or performance requirements; or for collecting, storing and disseminating information under the core services provisions at sections 134(d)(2)(E), (F), (G), (H) and (I) of the Act, are excluded from the administrative cost limit calculation.

(d) In a One-Stop environment, administrative costs borne by other sources of funds, such as the Wagner-Peyser Act, are not included in the administrative cost limit calculation. Each program's administrative activities area chargeable to its own grant and subject to its own administrative cost limitations.

§ 667.220 What Workforce Investment Act title I functions and activities constitute the costs of administration subject to the administrative cost limit?

(a) The costs of administration are that allocable portion of necessary and allowable costs that are associated with the overall management and administration of the workforce investment system and which are not related to the direct provision of workforce investment activities. These costs can be both personnel and non-personnel and both direct and indirect.

(b) The costs of administration include the costs associated with performing the responsibilities of the State and Local Workforce Investment Boards and of chief elected officials or boards of chief elected officials required for the local public/private partnership. The specific responsibilities of these boards and officials include, but are not limited to, those identified in the sections of the Act dealing with workforce investment boards and areas and one-stop systems, (WIA secs. 111(d), 116, 117(d), (e) & (h)(4), and 121(a)), such as:

(1) Performing overall general administrative functions and coordination of those functions under WIA title I including:

(i) Preparing program plans, budgets, related schedules, and amendments or modifications thereto;

(ii) Negotiating MOUs and awarding specific subgrants, contracts, and purchase orders through appropriate procurement processes,

(iii) Conducting public relations activities which are not related to program outreach,

(iv) Developing systems and procedures, including information systems for assuring compliance with program requirements, except:

(A) Those needed for tracking and monitoring of WIA program, participant, or performance requirements; or

(B) For collecting, storing and disseminating information under the core services provisions at WIA sections 134(d)(2)(E), (F), (G), (H) and (I) and information necessary to comply with WIA section 188 and its implementing regulations.

(v) Coordinating the resolution of findings arising from audits, reviews, investigations and incident reports, and

(vi) Performing administrative services, including such services as general legal services, financial management and accounting services, audit services; and managing purchasing, property, payroll, and personnel;

(2) Performing oversight responsibilities including monitoring of WIA programs, projects and subrecipients, and related systems and processes for compliance with program requirements,

(3) Costs for goods and services required for administration of the program, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space;

(4) The costs of organization-wide management functions;

(5) Travel costs incurred for official business in carrying out administrative activities or the overall management of the WIA system; and

(6) Costs of information systems not related to the tracking and monitoring of WIA program, participant, or performance requirements; or for collecting, storing and disseminating information under the core services provisions at sections 134(d)(2)(E), (F), (G), (H) and (I) of the Act, (for example, personnel, accounting and payroll systems).

(c)(1) That portion of the costs of One-Stop operators which are associated with the performance of the administrative functions described in paragraph (b) of this section are classified as administrative costs. That portion of the costs of one-stop operators which are associated with the direct provision of workforce investment activities are classified as program costs.

(2) Personnel and related non-personnel costs of the recipient's or subrecipient's staff, including project directors, who perform both administrative and programmatic services or activities may be allocated as administrative or program costs to the benefitting cost objectives/categories based on documented distributions of actual time worked or other equitable cost allocation methods.

(3) Costs of staff who provide program services directly to participants and, where applicable, the first line supervisors and/or team leaders responsible for those staff are classified as a program cost.

(4) Specific costs charged to an overhead or indirect cost pool that can be identified directly as a program cost may be charged as a program cost. Documentation of such charges must be maintained.

(5) The costs of contracts, whether fixed price or cost reimbursement, awarded for the purpose of obtaining specific goods or services may be charged to the administration or program category based on the purpose for which the contract was awarded.

(6) The following information systems and data entry costs are charged to the program category.

(i) Tracking or monitoring of participant and performance information;

(ii) Employment statistics information, including job listing information, job skills information, and demand occupation information;

(iii) Performance and program cost information on eligible providers of training services, youth activities, and appropriate education activities;

(iv) Local area performance information; and

(v) Information relating to supportive services and unemployment insurance claims for program participants;

(7) Continuous improvement activities are charged to administration or program category based on the purpose or nature of the activity to be improved. Documentation of such charges must be maintained.

§ 667.250 What requirements relate to the enforcement of the Military Selective Service Act?

The requirements relating to the enforcement of the Military Selective Service Act are found at WIA section 189(h).

§ 667.260 May WIA title I funds be spent for construction?

WIA title I funds must not be spent on construction or purchase of facilities or buildings except:

(a) To meet a recipient's, as the term is defined in 29 CFR 31.2(h), obligation to provide physical and programmatic accessibility and reasonable accommodation, as required by section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended;

(b) To fund repairs, alterations and capital improvements of:

(1) SESA real property, identified at WIA section 193, using a formula that assesses costs proportionate to space utilized;

(2) JTPA owned property which is transferred to WIA title I programs;

(c) For Job Corps facilities, as authorized by WIA section 160(3)(B); and

(d) To fund disaster relief employment on projects for demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within a disaster area. (WIA sec. 173(d).)

§ 667.262 Are employment generating activities, or similar activities, allowable under WIA title I?

(a) Under WIA section 181(e), WIA title I funds may not be spent on

employment generating activities, economic development, and other similar activities, unless they are directly related to training for eligible individuals. For purposes of this section, employer outreach and job development activities are directly related to training for eligible individuals.

(b) These employer outreach and job development activities include:

(1) Contacts with potential employers for the purpose of placement of WIA participants;

(2) Participation in business associations (such as chambers of commerce);

(3) WIA staff participation on economic development boards and commissions, and work with economic development agencies, to:

(i) Provide information about WIA programs,

(ii) Assist in making informed decisions about community job training needs, and

(iii) Promote the use of first source hiring agreements and enterprise zone vouchering services,

(4) Active participation in local business resource centers (incubators) to provide technical assistance to small and new business to reduce the rate of business failure;

(5) Subscriptions to relevant publications;

(6) General dissemination of information on WIA programs and activities;

(7) The conduct of labor market surveys;

(8) The development of on-the-job training opportunities; and (9) Other allowable WIA activities in the private sector. (WIA sec. 181(e).)

§ 667.264 What other activities are prohibited under title I of WIA?

(a) WIA title I funds must not be spent on:

(1) The wages of incumbent employees during their participation in economic development activities provided through a Statewide workforce investment system, (WIA sec. 181(b)(1).);

(2) Public service employment, except to provide disaster relief employment, as specifically authorized in section 173(d) of WIA, (WIA sec. 195(10));

(3) Expenses prohibited under any other Federal, State or local law or regulation.

(b) WIA formula funds available to States and local areas under subtitle B, title I of WIA must not be used for foreign travel. (WIA sec. 181(e).)

§ 667.266 What are the limitations related to sectarian activities?

(a) WIA title I funds may not be spent on the employment or training of participants in sectarian activities.

(b) Participants must not be employed under title I of WIA to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship. However, WIA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIA participants. (WIA sec. 188(a)(3).)

§ 667.268 What prohibitions apply to the use of WIA title I funds to encourage business relocation?

(a) WIA funds may not be used or proposed to be used for:

(1) The encouragement or inducement of a business, or part of a business, to relocate from any location in the United States, if the relocation results in any employee losing his or her job at the original location;

(2) Customized training, skill training, or on-the-job training or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employee losing his or her jobs at the original location.

(b) Pre-award review. To verify that an establishment which is new or expanding is not, in fact, relocating employment from another area, standardized pre-award review criteria developed by the State must be completed and documented jointly by the local area with the establishment as a prerequisite to WIA assistance. The review must include names under which the establishment does business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIA assistance is sought in connection with past or impending job losses at other facilities, including a review of whether WARN notices relating to the employer have been filed. (WIA sec. 181(d).)

§ 667.269 What procedures and sanctions apply to violations of §§ 667.260 through 667.268?

(a) The Secretary will promptly review and take appropriate action with regard to alleged violations of the provisions relating to:

(1) Employment generating activities (§ 667.262);

(2) Other prohibited activities (§ 667.264);

(3) The limitation related to sectarian activities (§ 667.266);

(4) The use of WIA title I funds to encourage business relocation (§ 667.268).

(b) Procedures for the investigation and resolution of the violations are provided for under the Grant Officer's resolution process at § 667.510 of this subpart. Sanctions and remedies are provided for under WIA section 184(c) for violations of the provisions relating to:

(1) Construction (§ 667.260);

(2) Employment generating activities (§ 667.262);

(3) Other prohibited activities (§ 667.264); and

(4) The limitation related sectarian activities in (§ 667.266(a)).

(c) Sanctions and remedies are provided for under WIA section 181(d)(3) for violations of § 667.268 of this subpart, which addresses business relocation.

(d) Violations of § 667.266(b) will be handled in accordance with the DOL nondiscrimination regulations implementing WIA section 188.

§ 667.270 What safeguards are there to ensure that participants in Workforce Investment Act employment and training activities do not displace other employees?

(a) A participant in a program or activitiy authorized under title I of WIA must not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(b) A program or activity authorized under title I of WIA must not impair existing contracts for services or collective bargaining agreements. When a program or activity authorized under title I of WIA would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the program or activity begins.

(c) A participant in a program or activity under title I of WIA may not be employed in or assigned to a job if:

(1) Any other individual is on layoff from the same or any substantially equivalent job;

(2) The employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the WIA participant; or

(3) The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.

(d) Regular employees and program participants alleging displacement may file a complaint under the applicable grievance procedures found at § 667.600 of this part. (WIA sec. 181.)

§ 667.272 What wage and labor standards apply to participants in activities under title I of WIA?

(a) Individuals in on-the-job training or individuals employed in activities under title I of WIA must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills. Such rates must be in accordance with applicable law, but may not be less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

(b) Individuals in on-the-job training or individuals employed in programs and activities under Title I of WIA must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

(c) Allowances, earnings, and payments to individuals participating in programs under Title I of WIA are not considered as income for purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or Federally assisted program based on need other than as provided under the Social Security Act (42 USC 301 *et seq.*). (WIA sec. 181(a)(2).)

§ 667.274 What health and safety standards apply to the working conditions of participants in activities under title I of WIA?

(a) Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in programs and activities under Title I of WIA.

(b)(1) To the extent that a State workers' compensation law applies, workers' compensation must be provided to participants in programs and activities under Title I of WIA on the same basis as the compensation is provided to other individuals in the State in similar employment.

(2) If a State workers' compensation law applies to a participant in work experience, workers' compensation benefits must be available with respect to injuries suffered by the participant in such work experience. If a State workers' compensation law does not apply to a participant in work experience, insurance coverage must be secured for injuries suffered by the participant in the course of such work experience.

§ 667.275 What are a recipient's obligations to ensure nondiscrimination and equal opportunity, as well as nonparticipation in sectarian activities?

(a)(1) Recipients, including State and local workforce investment boards, One-Stop operators, service providers, vendors and subrecipients, must comply with the nondiscrimination and equal opportunity provisions of WIA section 188 and its implementing regulations.

(2) Nondiscrimination and equal opportunity requirements and procedures, including complaint processing and compliance reviews, are governed by the regulations implementing WIA sec. 188 and are administered and enforced by the DOL Civil Rights Center.

(3) As described in § 667.260(a), funds may be used to meet a recipient's obligation to provide physical and programmatic accessibility and reasonable accommodation in regard to the WIA program, as required by section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended.

(b) Except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants, the employment or training of participants in sectarian activities is prohibited.

Subpart C—Reporting Requirements

§ 667.300 What are the reporting requirements for Workforce Investment Act programs?

(a) *General.* All States and other direct grant recipients must report financial, participant, and performance data in accordance with instructions issued by DOL. Required reports must be submitted no more frequently than quarterly within a time period specified in the reporting instructions.

(b) *Subrecipient reporting.* (1) A State or other direct grant recipient may impose different forms or formats, shorter due dates, and more frequent reporting requirements on subrecipients. However, the recipient is required to meet the reporting requirements imposed by DOL.

(2) If a State intends to impose different reporting requirements, it must describe those reporting requirements in its State WIA plan.

(c) *Financial reports.* (1) Each grant recipient must submit financial reports to DOL.

(2) Reports must include any income or profits earned, including such income or profits earned by subrecipients, and any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations. (WIA sec. 185(f)(2))

(3) Reported expenditures and program income, including any profits earned, must be on the accrual basis of accounting and cumulative by fiscal year of appropriation. If the recipient's accounting records are not normally kept on the accrual basis of accounting, the recipient must develop accrual information through an analysis of the documentation on hand.

(d) *Due date.* Financial reports and participant data reports are due no later than 45 days after the end of each quarter unless otherwise specified in reporting instructions. A final financial report is required 90 days after the expiration of a funding period or the termination of grant support.

(e) *Annual Performance Progress Report.* An annual performance progress report for each of the three programs under title I, subpart B is required by WIA section 136(d).

(1) A State failing to submit any of these annual performance progress reports within 45 days of the due date may have its grant (for that program or all title I, subpart B programs) for the succeeding year reduced by as much as five percent, as provided by WIA section 136(g)(1)(B).

(2) States submitting annual performance progress reports that cannot be validated or verified as accurately counting and reporting activities in accordance with the reporting instructions, may be treated as failing to submit annual reports, and be subject to sanction. Sanctions related to State performance or failure to submit these reports timely cannot result in a total grant reduction of more than five percent. Any sanction would be in addition to having to repay the amount of any incentive funds granted based on the invalid report.

Subpart D—Oversight and Monitoring

§ 667.400 Who is responsible for oversight and monitoring of WIA title I grants?

(a) The Secretary is authorized to monitor all recipients and subrecipients

of all grants awarded and funds expended under WIA title I to determine compliance with the Act and these regulations, and may investigate any matter deemed necessary to determine such compliance. Federal oversight will be conducted primarily at the recipient level.

(b) In each fiscal year, the Secretary will also conduct in-depth reviews in several States, including financial and performance audits, to assure that funds are spent in accordance with the Act. Priority for such in-depth reviews will be given to States not meeting annual adjusted levels of performance.

(c)(1) Each recipient and subrecipient must continuously monitor grant-supported activities in accordance with the uniform administrative requirements at 29 CFR parts 95 and 97, as applicable, including the applicable cost principles indicated at 29 CFR 97.22(b) or 29 CFR 95.27, for all entities receiving WIA title I funds. For governmental units, the applicable requirements are at 29 CFR part 97. For non-profit organizations, the applicable requirements are at 29 CFR part 95.

(2) In the case of grants under WIA secs. 127 and 132, the Governor must develop a State monitoring system that meets the requirements of § 667.410(b) of this subpart. The Governor must monitor Local Boards annually for compliance with applicable laws and regulations in accordance with the State monitoring system. Monitoring must include an annual review of each local area's compliance with the uniform administrative requirements.

§ 667.410 What are the oversight roles and responsibilities of recipients and subrecipients?

(a) *Roles and responsibilities for all recipients and subrecipients of funds under WIA title I in general.* Each recipient and subrecipient must conduct regular oversight and monitoring of its WIA activities and those of its subrecipients and contractors in order to:

(1) Determine that expenditures have been made against the cost categories and within the cost limitations specified in the Act and these regulations;

(2) Determine whether or not there is compliance with other provisions of the Act and these regulations and other applicable laws and regulations; and

(3) Provide technical assistance as necessary and appropriate.

(b) *State roles and responsibilities for grants under WIA sections 127 and 132.*

(1) The Governor is responsible for the development of the State monitoring system. The Governor must be able to demonstrate to the Department, through a monitoring plan or otherwise, that the State monitoring system meets the requirements of paragraph (b)(2) of this section.

(2) The State monitoring system must:

(i) Provide for annual on-site monitoring reviews of local areas' compliance with DOL uniform administrative requirements, as required by WIA section 184(a)(4);

(ii) Ensure that established policies to achieve program quality and outcomes meet the objectives of the Act and these regulations, including the provision of services by One-Stop Centers, eligible providers of training services, and eligible providers of youth activities;

(iii) Enable the Governor to determine if subrecipients and contractors have demonstrated substantial compliance with WIA requirements; and

(iv) Enable the Governor to determine whether a local plan will be disapproved for failure to make acceptable progress in addressing deficiencies, as required in WIA sec. 118(d)(1).

(3) The State must conduct an annual on-site monitoring review of each local area's compliance with DOL uniform administrative requirements, including the appropriate administrative requirements for subrecipients and the applicable cost principles indicated at § 667.200 for all entities receiving WIA title I funds.

(4) The Governor must require that prompt corrective action be taken if any substantial violation of standards identified in paragraphs (b)(2) or (3) of this section is found. (WIA sec. 184(a)(5).)

(5) The Governor must impose the sanctions provided in WIA sections 184(b) and (c) in the event of a subrecipients's failure to take required corrective action required under paragraph (b)(4) of this section.

(6) The Governor may issue additional requirements and instructions to subrecipients on monitoring activities.

(7) Governor must certify to the Secretary every two years that:

(i) The State has implemented uniform administrative requirements;

(ii) The State has monitored local areas to ensure compliance with uniform administrative requirements; and

(iii) The State has taken appropriate corrective action to secure such compliance. (WIA sec. 184(a)(6)(A), (B), and (C).)

Subpart E—Resolution of Findings From Monitoring and Oversight Reviews

§ 667.500 What procedures apply to the resolution of findings arising from audits, investigations, monitoring and oversight reviews?

(a) *Resolution of subrecipient-level findings.* (1) The Governor is responsible for resolving findings that arise from the State's monitoring reviews, investigations and audits (including OMB Circular A–133 audits) of subrecipients.

(2) A State must utilize the audit resolution, debt collection and appeal procedures that it uses for other Federal grant programs.

(3) If a State does not have such procedures, it must prescribe standards and procedures to be used for this grant program.

(b) *Resolution of State and other direct recipient level findings.* (1) The Secretary is responsible for resolving findings that arise from Federal audits, monitoring reviews, investigations, incident reports, and recipient level OMB Circular A–133 audits.

(2) The Secretary uses the DOL audit resolution process, consistent with the Single Audit Act of 1996 and OMB Circular A–133, and Grant Officer Resolution provisions of § 667.510 of this subpart, as appropriate.

(3) A final determination issued by a Grant Officer under this process may be appealed to the DOL Office of Administrative Law Judges under the procedures at § 667.800 of this part.

(c) *Resolution of nondiscrimination findings.* Findings arising from investigations or reviews conducted under nondiscrimination laws will be resolved in accordance with WIA section 188 and the Department of Labor nondiscrimination regulations implementing WIA section 188.

§ 667.505 How does the Department resolve investigative and monitoring findings?

(a) As a result of an investigation, on-site visit or other monitoring, the Department notifies the recipient of the findings of the investigation and gives the recipient a period of time (not more than 60 days) to comment and to take appropriate corrective actions.

(b) The Grant Officer reviews the complete file of the investigation or monitoring report and the recipient's actions under paragraph (a) of this section. The Grant Officer's review takes into account the sanction provisions of WIA sections 184(b) and (c). If the Grant Officer agrees with the recipient's handling of the situation, the Grant

Officer so notifies the recipient. This notification constitutes final agency action.

(c) If the Grant Officer disagrees with the recipient's handling of the matter, the Grant Officer proceeds under § 667.510 of this subpart.

§ 667.510 What is the Grant Officer resolution process?

(a) *General.* When the Grant Officer is dissatisfied with the State's disposition of an audit or other resolution of violations (including those arising out of incident reports or compliance reviews), or with the recipient's response to findings resulting from investigations or monitoring report, the initial and final determination process, set forth in this section, is used to resolve the matter.

(b) *Initial determination.* The Grant Officer makes an initial determination on the findings for both those matters where there is agreement and those where there is disagreement with the recipient's resolution, including the allowability of questioned costs or activities. This initial determination is based upon the requirements of the Act and regulations, and the terms and conditions of the grants, contracts, or other agreements under the Act.

(c) *Informal resolution.* Except in an emergency situation, when the Secretary invokes the authority described in WIA section 184(e), the Grant Officer may not revoke a recipient's grant in whole or in part, nor institute corrective actions or sanctions, without first providing the recipient with an opportunity to present documentation or arguments to resolve informally those matters in controversy contained in the initial determination. The initial determination must provide for an informal resolution period of at least 60 days from issuance of the initial determination. If the matters are resolved informally, the Grant Officer must issue a final determination under paragraph (d) of this section which notifies the parties in writing of the nature of the resolution and may close the file.

(d) *Grant Officer's final determination.* (1) If the matter is not fully resolved informally, the Grant Officer provides each party with a written final determination by certified mail, return receipt requested. For audits of recipient-level entities and other recipients which receive WIA funds directly from DOL, ordinarily, the final determination is issued not later than 180 days from the date that the Office of Inspector General (OIG) issues the final approved audit report to the Employment and Training Administration. For audits of subrecipients conducted by the OIG, ordinarily the final determination is issued not later than 360 days from the date the OIG issues the final approved audit report to ETA.

(2) A final determination under this paragraph (d) must:

(i) Indicate that efforts to informally resolve matters contained in the initial determination have been unsuccessful;

(ii) List those matters upon which the parties continue to disagree;

(iii) List any modifications to the factual findings and conclusions set forth in the initial determination and the rationale for such modifications;

(iv) Establish a debt, if appropriate;

(v) Require corrective action, when needed;

(vi) Determine liability, method of restitution of funds and sanctions; and

(vii) Offer an opportunity for a hearing in accordance with § 667.800 of this part.

(3) Unless a hearing is requested, a final determination under this paragraph (d) is final agency action and is not subject to further review.

(e) Nothing in this subpart precludes the Grant Officer from issuing an initial determination and/or final determination directly to a subrecipient, in accordance with section 184(d)(3) of the Act. In such a case, the Grant Officer will inform the recipient of this action.

Subpart F—Grievance Procedures, Complaints, and State Appeals Processes

§ 667.600 What local area, State and direct recipient grievance procedures must be established?

(a) Each local area, State and direct recipient of funds under title I of WIA, except for Job Corps, must establish and maintain a procedure for grievances and complaints according to the requirements of this section. The grievance procedure requirements applicable to Job Corps are set forth at 20 CFR 670.990.

(b) Local area procedures must provide:

(1) A process for dealing with grievances and complaints from participants and other interested parties affected by the local Workforce Investment System, including one-stop partners and service providers;

(2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint;

(3) A process which allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides; and

(4) An opportunity for a local level appeal to a State entity when:

(i) No decision is reached within 60 days; or

(ii) Either party is dissatisfied with the local hearing decision.

(c) State procedures must provide:

(1) A process for dealing with grievances and complaints from participants and other interested parties affected by the Statewide Workforce Investment programs;

(2) A process for resolving appeals made under paragraph (b)(4) of this section;

(3) A process for remanding grievances and complaints related to the local Workforce Investment Act programs to the local area grievance process; and

(4) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint; and

(d) Procedures of direct recipients must provide:

(1) A process for dealing with grievance and complaints from participants and other interested parties affected by the recipient's Workforce Investment Act programs; and

(2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint.

(e) The remedies that may be imposed under local, State and direct recipient grievance procedures are enumerated at WIA section 181(c)(3).

(f)(1) Under WIA section 188(a), complaints of discrimination from participants and other interested parties must be handled in accordance with WIA section 188(b), and the Department of Labor nondiscrimination regulations implementing that section.

(2) Questions about or complaints alleging a violation of the nondiscrimination provisions of WIA section 188 may be directed or mailed to the Director, Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, DC 20210, for processing.

(g) Nothing in this subpart precludes a grievant or complainant from pursuing a remedy authorized under another Federal, State or local law.

§ 667.610 What processes does the Secretary use to review State and local grievances and complaints?

(a) The Secretary investigates allegations arising through the grievance procedures described in § 667.600 when:

(1) A decision relating to a grievance or complaint under § 667.600(c) has not been reached within 60 days of receipt

of the grievance or complaint or within 60 days of receipt of the request for appeal of a local level grievance and either party appeals to the Secretary; or

(2) A decision relating to a grievance or complaint under § 667.600(c) has been reached and the party to which such decision is adverse appeals to the Secretary.

(b) The Secretary must make a final decision on an appeal under paragraph (a) of this section no later than 120 days after receiving such appeal.

(c) Appeals made under to paragraph (a)(2) of this section must be filed within 60 days of the receipt of the decision being appealed. Appeals made under to paragraph (a)(1) of this section must be filed within 120 days of the filing of the grievance with the State, or the filing of the appeal of a local grievance with the State. All appeals must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210, Attention: ASET. A copy of the appeal must be simultaneously provided to the appropriate ETA Regional Administrator and the opposing party.

(d) Except for complaints arising under WIA section 184(f), grievances or complaints made directly to the Secretary will be referred to the appropriate State or local area for resolution in accordance with this section, unless the Secretary notifies the parties that the Department will investigate the grievance under the procedures at § 667.505.

§ 667.630 How are complaints and reports of criminal fraud and abuse addressed under WIA?

Information and complaints involving criminal fraud, waste, abuse or other criminal activity must be reported immediately through the Department's Incident Reporting System to the DOL Office of Inspector General, Office of Investigations, Room S5514, 200 Constitution Avenue NW., Washington, DC 20210, or to the corresponding Regional Inspector General for Investigations, with a copy simultaneously provided to the Employment and Training Administration. The Hotline number is 1–800–347–3756. Complaints of a non-criminal nature are handled under the procedures set forth in § 667.505 of this part or through the Department's Incident Reporting System.

§ 667.640 What additional appeal processes or systems must a State have for the WIA program?

(a) *Non-designation of local areas.* (1) The State must establish, and include in its State Plan, due process procedures which provide expeditious appeal to the State Board for a unit or combination of units of general local government or a rural concentrated employment program grant recipient (as described at WIA section 116(a)(2)(B)) that requests, but is not granted, automatic or temporary and subsequent designation as a local workforce investment area under WIA section 116(a)(2) or 116(a)(3).

(2) These procedures must provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(3) If the appeal to the State Board does not result in designation, the appellant may request review by the Secretary under § 667.645.

(4) If the Secretary determines that the appellant was not accorded procedural rights under the appeal process established in paragraph (a)(1) of this section, or that the area meets the requirements for designation at WIA section 116(a)(2) or 116(a)(3), the Secretary may require that the area be designated as a workforce investment area.

(b) *Denial or termination of eligibility as a training provider.* (1) A State must establish procedures which allow providers of training services the opportunity to appeal:

(i) Denial of eligibility by a Local Board or the designated State agency under WIA section 122(b), (c) or (e);

(ii) Termination of eligibility or other action by a Local Board or State agency under section 122(f); or

(iii) Denial of eligibility as a provider of on-the-job training (OJT) or customized training by a One-Stop operator under WIA section 122(h).

(2) Such procedures must provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(3) A decision under this State appeal process may not be appealed to the Secretary.

(c) *Testing and sanctioning for use of controlled substances.* (1) A State must establish due process procedures which provide expeditious appeal for:

(i) WIA participants subject to testing for use of controlled substances, imposed under a State policy established under WIA section 181(f); and

(ii) WIA participants who are sanctioned after testing positive for the use of controlled substances, under the policy described in paragraph (c)(i) of this section.

(2) A decision under this State appeal process may not be appealed to the Secretary.

§ 667.645 What procedures apply to the appeals of non-designation of local areas?

(a) A unit or combination of units of general local government or rural concentrated employment program grant recipient (as described at WIA section 116(a)(2)(B)) whose appeal of the denial of a request for automatic or temporary and subsequent designation as a local workforce investment area to the State Board has not resulted in designation may appeal the denial of local area designation to the Secretary.

(b) Appeals made under to paragraph (a) of this section must be filed no later than 30 days after receipt of written notification of the denial from the State Board, and must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210, Attention: ASET. A copy of the appeal must be simultaneously provided to the State Board.

(c) The appellant must establish that it was not accorded procedural rights under the appeal process set forth in the State Plan, or establish that it meets the requirements for designation in WIA sections 116(a)(2) or (a)(3). The Secretary may consider any comments submitted in response by the State Board.

(d) If the Secretary determines that the appellant has met its burden of establishing that it was not accorded procedural rights under the appeal process set forth in the State Plan, or that it meets the requirements for designation in WIA sections 116(a)(2) or (a)(3), the Secretary may require that the area be designated as a local workforce investment area.

(e) The Secretary must issue a written decision to the Governor and the appellant.

§ 667.650 What procedures apply to the appeals of the Governor's imposition of sanctions for substantial violations or performance failures by a local area?

(a) A local area which has been found in substantial violation of WIA title I, and has received notice from the Governor that either all or part of the local plan will be revoked or that a reorganization will occur, may appeal such sanctions to the Secretary under WIA section 184(b). The actions do not become effective until:

(1) The time for appeal has expired; or

(2) The Secretary has issued a decision.

(b) A local area which has failed to meet local performance measures for two consecutive years, and has received the Governor's notice of intent to impose a reorganization plan, may

appeal such sanctions to the Secretary under WIA section 136(h)(1)(B).

(c) Appeals made under paragraph (a) or (b) of this section must be filed no later than 30 days after receipt of written notification of the revoked plan or imposed reorganization, and must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210, Attention: ASET. A copy of the appeal must be simultaneously provided to the Governor.

(d) The Secretary may consider any comments submitted in response by the Governor.

(e) The Secretary will notify the Governor and the appellant in writing of the Secretary's decision under paragraph (a) of this section within 45 days after receipt of the appeal. The Secretary will notify the Governor and the appellant in writing of the Secretary's decision under paragraph (b) of this section within 30 days after receipt of the appeal.

Subpart G—Sanctions, Corrective Actions, and Waiver of Liability

§ 667.700 What procedure does the Department utilize to impose sanctions and corrective actions on recipients and subrecipients of WIA grant funds?

(a) Except for actions under WIA section 188(a) (relating to nondiscrimination requirements), the Grant Officer uses the initial and final determination procedures outlined in § 667.510 of this part to impose a sanction or corrective action.

(b) To impose a sanction or corrective action regarding a violation of WIA section 188(a), the Department will utilize the procedures of WIA section 188(b) and the Department of Labor nondiscrimination regulations implementing that section.

(c) To impose a sanction or corrective action for noncompliance with the uniform administrative requirements set forth at section 184(a)(3) of WIA, and § 667.200(a) of this part, when the Secretary determines that the Governor has not taken corrective action to remedy the violation required by WIA section 184(a)(5), the Grant Officer, under the authority of WIA section 184(a)(7), may impose any of the corrective actions set forth at WIA section 184(b)(1). In such situations, the Secretary may immediately suspend or terminate financial assistance in accordance with WIA section 184(e).

(d) The Grant Officer may also impose a sanction directly against a subrecipient, as authorized in section 184(d)(3) of the Act. In such a case, the Grant Officer will inform the recipient of the action.

§ 667.705 Who is responsible for funds provided under title I of WIA?

(a) The recipient is responsible for all funds under its grant(s).

(b) The political jurisdiction(s) of the chief elected official(s) in a local workforce investment area is liable for any misuse of the WIA grant funds allocated to the local area under WIA sections 128 and 133, unless the chief elected official(s) reaches an agreement with the Governor to bear such liability.

(c) When a local workforce area is composed of more than one unit of general local government, the joint liability of the individual jurisdictions must be specified in a written agreement between the chief elected officials.

§ 667.710 What actions are required to address the failure of a local area to comply with the applicable uniform administrative provisions?

(a) If, as part of the annual on-site monitoring of local areas, the Governor determines that a local area is not in compliance with the uniform administrative requirements found at 29 CFR part 95 or part 97, as appropriate, the Governor must:

(1) Require corrective action to secure prompt compliance; and

(2) Impose the sanctions provided for at section 184(b) if the Governor finds that the local area has failed to take timely corrective action.

(b) An action by the recipient to impose a sanction against a local area, in accordance with this section, may be appealed to the Secretary in accordance with § 667.650, and will not become effective until:

(1) The time for appeal has expired; or

(2) The Secretary has issued a decision.

(c) If the Secretary finds that the Governor has failed to promptly take the actions required upon a determination under paragraph (a) of this section that a local area is not in compliance with the uniform administrative requirements, the Secretary must take such actions against the State recipient or the local area, as appropriate.

§ 667.720 How does the Department handle a recipient's request for waiver of liability under WIA section 184(d)(2)?

(a) A recipient may request a waiver of liability, as described in WIA section 184(d)(2), and a Grant Officer may approve such a waiver under WIA section 184(d)(3).

(b)(1) When the debt for which a waiver of liability is desired was established in a non-Federal resolution proceeding, the resolution report must accompany the waiver request.

(2) When the waiver request is made during the ETA Grant Officer resolution process, the request must be made during the informal resolution period described in § 667.510(c) of this part.

(c) A waiver of the recipient's liability shall be considered by the Grant Officer only when:

(1) The misexpenditure of WIA funds occurred at a subrecipient's level;

(2) The misexpenditure was not due to willful disregard of the requirements of title I of the Act, gross negligence, failure to observe accepted standards of administration, or did not constitute fraud;

(3) If fraud did exist, it was perpetrated against the recipient/subrecipients; and

(i) The recipient/subrecipients discovered, investigated, reported, and cooperated in any prosecution of the perpetrator of the fraud; and

(ii) After aggressive debt collection action, it has been documented that further attempts at debt collection from the perpetrator of the fraud would be inappropriate or futile;

(4) The recipient has issued a final determination which disallows the misexpenditure, the recipient's appeal process has been exhausted, and a debt has been established; and

(5) The recipient requests such a waiver and provides documentation to demonstrate that it has substantially complied with the requirements of section 184(d)(2) of the Act, and this section.

(d) The recipient will not be released from liability for misspent funds under the determination required by section 184(d) of the Act unless the Grant Officer determines that further collection action, either by the recipient or subrecipients, would be inappropriate or would prove futile.

§ 667.730 What is the procedure to handle a recipient's request for advance approval of contemplated corrective actions?

(a) The recipient may request advance approval from the Grant Officer for contemplated corrective actions, including debt collection actions, which the recipient plans to initiate or to forego. The recipient's request must include a description and an assessment of all actions taken by the subrecipients to collect the misspent funds.

(b) Based on the recipient's request, the Grant Officer may determine that the recipient may forego certain collection actions against a subrecipient when:

(1) The subrecipient meets the criteria set forth in section 184(d)(2) of the Act;

(2) The misexpenditure of funds:

(i) Was not made by that subrecipient but by an entity that received WIA funds from that subrecipient;

(ii) Was not a violation of section 184(d)(1) of the Act, and did not constitute fraud; or

(iii) If fraud did exist,

(A) It was perpetrated against the subrecipient; and:

(B) The subrecipient discovered, investigated, reported, and cooperated in any prosecution of the perpetrator of the fraud; and

(C) After aggressive debt collection action, it has been documented that further attempts at debt collection from the perpetrator of the fraud would be inappropriate or futile;

(3) A final determination which disallows the misexpenditure and establishes a debt has been issued at the appropriate level;

(4) Final action within the recipient's appeal system has been completed; and

(5) Further debt collection action by that subrecipient or the recipient would be either inappropriate or futile.

§ 667.740 What procedure must be used for administering the offset/deduction provisions at WIA section 184(c)?

(a)(1) For recipient level misexpenditures, the Secretary may determine that a debt, or a portion thereof, may be offset against amounts that are allotted to the recipient. Recipients must submit a written request for an offset to the Grant Officer. Generally, the Secretary will apply the offset against amounts that are available at the recipient level for administrative costs.

(2) The Grant Officer may approve an offset request, under paragraph (b)(1) of this section, if the misexpenditures were not due to willful disregard of the requirements of the Act and regulations, gross negligence, failure to observe accepted standards of administration or a pattern of misexpenditure.

(b) For subrecipient level misexpenditures that were not due to willful disregard of the requirements of the Act and regulations, gross negligence, failure to observe accepted standards of administration or a pattern of misexpenditure, if the Secretary has required the State to repay such amount the State may deduct an amount equal to the misexpenditure from its subsequent year's allocations to the local area from funds available for the administrative costs of the local programs involved.

(c) If offset is granted, the debt will not be fully satisfied until the Grant Officer reduces amounts allotted to the State by the amount of the misexpenditure.

(d) A State may not make a deduction under paragraph (b)(2) of this section until the State has taken appropriate corrective action to ensure full compliance within the local area with regard to appropriate expenditure of WIA funds.

Subpart H—Administrative Adjudication and Judicial Review

§ 667.800 What actions of the Department may be appealed to the Office of Administrative Law Judges?

(a) An applicant for financial assistance under title I of WIA which is dissatisfied because the Secretary has issued a determination not to award financial assistance, in whole or in part, to such applicant; or a recipient, subrecipient, or a vendor against which the Grant Officer has directly imposed a sanction or corrective action, including a sanction against a State under 20 CFR part 666, may appeal to the U.S. Department of Labor, Office of Administrative Law Judges (OALJ) within 21 days of receipt of the final determination.

(b) Failure to request a hearing within 21 days of receipt of the final determination will constitute a waiver of the right to a hearing.

(c) A request for a hearing under this subpart must state specifically those issues in the final determination upon which review is requested. Those provisions of the final determination not specified for review, or the entire final determination when no hearing has been requested within the 21 days, are considered resolved and not subject to further review. Only alleged violations of the Act, its regulations, grant or other agreement under the Act fairly raised in the determination, and the request for hearing are subject to review.

(d) A request for a hearing must be transmitted by certified mail, return receipt requested, to the Chief Administrative Law Judge, U.S. Department of Labor, Suite 400, 800 K Street, NW, Washington, DC 20001, with one copy to the Departmental official who issued the determination.

(e) The procedures set forth in this subpart apply in the case of a complainant who has not had a dispute adjudicated under the alternative dispute resolution process set forth in § 667.840 of this part within the 60 days, except that the request for hearing before the OALJ must be filed within 15 days of the conclusion of the 60-day period. In addition to including the final determination upon which review is requested, the complainant must include a copy of any Stipulation of Facts and a brief summary of proceedings.

§ 667.810 What rules of procedure apply to hearings conducted under this subpart?

(a) *Rules of practice and procedure.* The rules of practice and procedure promulgated by the OALJ at subpart A of 29 CFR part 18, govern the conduct of hearings under this subpart. However, a request for hearing under this subpart is not considered a complaint to which the filing of an answer by DOL or a DOL agency or official is required. Technical Rules of evidence will not apply to hearings conducted pursuant to this part. However, Rules or principles designed to assure production of the most credible evidence available and to subject testimony to cross-examination will apply.

(b) *Prehearing procedures.* In all cases, the Administrative Law Judge (ALJ) should encourage the use of prehearing procedures to simplify and clarify facts and issues.

(c) *Subpoenas.* Subpoenas necessary to secure the attendance of witnesses and the production of documents or other items at hearings must be obtained from the ALJ and must be issued under the authority contained in section 183(c) of the Act, incorporating 15 U.S.C. 49.

(d) *Timely submission of evidence.* The ALJ must not permit the introduction at the hearing of any documentation if it has not been made available for review by the other parties to the proceeding either at the time ordered for any prehearing conference, or, in the absence of such an order, at least 3 weeks prior to the hearing date.

(e) *Burden of production.* The Grant Officer has the burden of production to support her or his decision. To this end, the Grant Officer prepares and files an administrative file in support of the decision which must be made part of the record. Thereafter, the party or parties seeking to overturn the Grant Officer's decision has the burden of persuasion.

§ 667.820 What authority will the Administrative Law Judge have in ordering relief as an outcome of an administrative hearing?

In ordering relief, the ALJ has the full authority of the Secretary under the Act.

§ 667.825 What special rules apply to reviews of MSFW and WIA INA grant selections?

(a) An applicant whose application for funding as a WIA INA grantee under 20 CFR part 668 or as an MSFW grantee under 20 CFR part 669 is denied in whole or in part by the Department may request an administrative review under § 667.800(a) with respect to whether there is a basis in the record to support the Department's decision. This appeal

will not in any way interfere with the Department's designation and funding of another organization to serve the area in question during the appeal period. The available remedy in such an appeal is the right to be designated in the future as the WIA INA or MSFW grantee for the remainder of the current grant cycle. Neither retroactive nor immediately effective selection status may be awarded as relief in a non-selection appeal under this section. The appellant may not be awarded a grant nor given any kind of preference beyond the current two year-grant period.

(b) If the ALJ rules that the organization should have been selected and the organization continues to meet the requirements of 20 CFR part 668 or part 669, the Department will select and fund the organization within 90 days of the ALJ's decision unless the end of the 90-day period is within six (6) months of the end of the funding period. An applicant so selected is not entitled to the full grant amount, but will only receive the funds remaining in the grant that have not been expended by the current grantee through its operation of the grant and its subsequent closeout.

(c) Any organization selected and/or funded as a WIA INA or MSFW grantee is subject to being removed as grantee in the event an ALJ decision so orders. The Grant Officer provides instructions on transition and close-out to a grantee which is removed. All parties must agree to the provisions of this paragraph as a condition for WIA INA or MSFW funding.

§ 667.830 When will the Administrative Law Judge issue a decision?

(a) The ALJ should render a written decision not later than 90 days after the closing of the record.

(b) The decision of the Administrative Law Judge (ALJ) constitutes final agency action unless, within 20 days of the decision, a party dissatisfied with the ALJ's decision has filed a petition for review with the Administrative Review Board (ARB) (established under Secretary's Order No. 2–96, specifically identifying the procedure, fact, law or policy to which exception is taken. Any exception not specifically urged is deemed to have been waived. A copy of the petition for review must be sent to the opposing party at that time. Thereafter, the decision of the ALJ constitutes final agency action unless the ARB, within 30 days of the filing of the petition for review, notifies the parties that the case has been accepted for review. Any case accepted by the ARB must be decided within 120 days of acceptance. If not so decided, the decision of the ALJ constitutes final agency action.

§ 667.840 Is there an alternative dispute resolution process that may be used in place of an OALJ hearing?

(a) Parties to a complaint which has been filed according to the requirements of § 667.800 of this part may choose to waive their rights to an administrative hearing before the OALJ. Instead, they may choose to transfer the settlement of their dispute to an individual acceptable to all parties who will conduct an informal review of the stipulated facts and render a decision in accordance with applicable law. A written decision must be issued within 60 days after submission of the matter for informal review.

(b) The waiver of the right to request a hearing before the OALJ will automatically be revoked if a settlement has not been reached or a decision has not been issued within the 60 days provided in paragraph (a) of this section.

(c) The decision rendered under this informal review process will be treated as a final decision of an Administrative Law Judge under section 186(b) of the Act.

§ 667.850 Is there judicial review of a final order of the Secretary issued under WIA sec. 186 of the Act?

(a) Any party to a proceeding which resulted in a final order of the Secretary under section 186 of the Act may obtain a review in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds involved, by filing a review petition within 30 days of the issuance of the Secretary's final order.

(b) The court has jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary, in whole or in part.

(c) No objection to the Secretary's order may be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review is limited to questions of law, and the findings of fact of the Secretary are conclusive if supported by substantial evidence.

(d) The judgment of the court is final, subject to certiorari review by the United States Supreme Court.

§ 667.860 Are there other authorities for the pursuit of remedies outside of the Act?

Nothing contained in this subpart prejudices the separate exercise of other legal rights in pursuit of remedies and sanctions available outside the Act.

Subpart I—Transition

§ 667.900 What special rules apply during the JTPA/WIA transition?

(a)(1) To facilitate planning for the implementation of WIA, a Governor may reserve an amount equal to no more than 2 percent of the total amount of JTPA formula funds allotted to the State for PY's 1998 and 1999 for expenditure on transition planning activities. The funds may be from any one or more of the JTPA titles and subparts, that is, funds do not have to be drawn proportionately from all titles and subparts. The Governor must report the expenditure of these funds for transition planning separately in accordance with instructions issued by the Secretary, but is not required to be allocated to the various titles and subparts;

(2) These reserved transition funds may be excluded from any calculation of compliance with JTPA cost limitations.

(b) Not less than 50 percent of the funds reserved by the Governor in paragraph (a) of this section must be made available to local entities.

(c) The Secretary will issue such other transition guidance as necessary and appropriate.

PART 668—INDIAN AND NATIVE AMERICAN PROGRAMS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart A—Purposes and Policies

Sec.

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Authority: Secs. 506(c) and 166(h)(2) Pub. L. 105–220; 20 U.S.C. 9276(c); 29 U.S.C. 2911(h)(2)

Subpart A—Purposes and Policies

§ 668.100 What is the purpose of the programs established to serve Native American peoples (INA programs) under sec. 166 of the Workforce Investment Act (WIA)?

(a) The purpose of WIA INA programs is to support comprehensive employment and training activities for Indian, Alaska Native and Native Hawaiian individuals in order to:

(1) Develop more fully their academic, occupational, and literacy skills;

(2) Make them more competitive in the workforce;

(3) Promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities according to the goals and values of such communities; and

(4) Help them achieve personal and economic self-sufficiency.

(b) The principal means of accomplishing these purposes is to enable tribes and Native American organizations to provide employment and training services to Native American peoples and their communities. Services should be provided in a culturally appropriate manner, consistent with the principles of Indian self-determination. (WIA sec. 166(a)(1).)

§ 668.120 How must INA programs be administered?

(a) The Department will administer INA programs to maximize the Federal commitment to support the growth and development of Native American people and communities as determined by representatives of such communities.

(b) In administering these programs, the Department will observe the Congressional declaration of policy set forth in the Indian Self-Determination and Education Assistance Act, at 25 U.S.C. 450a, as well as the Department of Labor's ''American Indian and Alaska Native Policy,'' dated July 29, 1998.

(c) These regulations are not intended to abrogate the trust responsibilities of the Federal Government to Native American bands, tribes, or groups in any way.

(d) The Department will administer INA programs through a single organizational unit and consistent with the requirements in section 166(h) of the Act. The Department has designated the Division of Indian and Native American Programs (DINAP) within the Employment and Training Administration (ETA) as this single organizational unit required by WIA section 166(h)(1).

(e) The Department will establish and maintain administrative procedures for the selection, administration, monitoring, and evaluation of Native American employment and training programs authorized under this Act. The Department will utilize staff who have a particular competence in this field to administer these programs. (WIA sec. 166(h).)

§ 668.130 What obligation does the Department have to consult with the INA grantee community in developing rules, regulations, and standards of accountability for INA programs?

The Department will consult with the Native American grantee community as a full partner in developing policies for the INA programs. The Department will actively seek and consider the views of all INA grantees, and will discuss options with the grantee community prior to establishing policies and program regulations. The primary consultation vehicle is the Native American Employment and Training Council. (WIA sec. 166(h)(2).)

§ 668.140 How do the WIA regulations apply to the INA program?

(a) The regulations found in this subpart.

(b) The general administrative requirements found in 20 CFR part 667, including the regulations concerning Complaints, Investigations and Hearings found at 20 CFR part 667 subpart E through subpart H.

(c) The Department's regulations codifying the common rules implementing Office of Management and Budget (OMB) Circulars which generally apply to Federal programs carried out by Indian tribal governments and nonprofit organizations, at 29 CFR parts 95, 96, and 97, as applicable.

§ 668.150 What definitions apply to terms used in the regulations in this part?

In addition to the definitions found in WIA sections 101 and 166 and 20 CFR 660.300, the following definitions apply:

DINAP means the Division of Indian and Native American Programs within the Employment and Training Administration of the Department.

Governing Body means a body of representatives who are duly elected, appointed by duly elected officials, or selected according to traditional tribal means. A governing body must have the authority to provide services to and to enter into grants on behalf of the organization that selected or designated it.

Grant Officer means a Department of Labor official authorized to obligate Federal funds.

Indian or Native American (INA) Grantee means an entity which is formally designated under subpart B of this part to operate an INA program and which has a grant agreement pursuant to 20 CFR 668.292.

NEW means the Native Employment Works Program, the tribal work program authorized under section 412(a)(2) of the Social Security Act, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act (Pub. L. 104–193).

Underemployed means an individual who is working part time but desires full time employment, or who is working in employment not commensurate with the individual's demonstrated level of educational attainment.

Subpart B—Service Delivery Systems Applicable to Section 166 Programs

§ 668.200 What are the requirements for designation as an ''Indian or Native American (INA) grantee''?

(a) To be designated as an INA grantee for PY 1999, an entity must have:

(1) A legal status as a government or as an agency of a government, as a private non-profit corporation, or a consortium which contains at least one of these entities;

(2) The ability to administer INA program funds, as defined at § 668.220 of this subpart; and

(3) For PY 1999 only, a population within the designated geographic service area of 1,000 or more Native American persons.

(b) For PY 2000 and beyond, an entity must have:

(1) A legal status as a government or as an agency of a government, private non-profit corporation, or a consortium which contains at least one of these entities;

(2) The ability to administer INA program funds, as defined at § 668.220 of this subpart; and

(3) A new (non-incumbent) entity must have a population within the designated geographic service area which would provide funding under the funding formula found at § 668.296(b) in the amount of at least $100,000, including any amounts received for supplemental youth services under the funding formula at § 668.440(a). Incumbent grantees which do not meet this dollar threshold for PY 2000 and beyond will be grandfathered in. We will make an exception for grantees wishing to participate in the demonstration program under Pub. L. 102–477 if all resources to be consolidated under the Pub. L. 102–477 plan total at least $100,000.

(c) To be designated as a Native American grantee, a consortium or its members must meet the requirements of paragraphs (a) and (b) of this section and must:

(1) Be in close proximity to one another, but they may operate in more than one State;

(2) Have an administrative unit legally authorized to run the program and to commit the other members to contracts, grants, and other legally-binding agreements; and

(3) Be jointly and individually responsible for the actions and obligations of the consortium, including debts.

(d) Entities potentially eligible for designation under paragraph (a)(1) or (b)(1) of this section are:

(1) Federally-recognized Indian tribes;

(2) Tribal organizations, as defined in 25 U.S.C. 450b;

(3) Alaska Native-controlled organizations representing regional or village areas, as defined in the Alaska Native Claims Settlement Act;

(4) Native Hawaiian-controlled entities;

(5) State-recognized Indian tribes;

(6) Native American-controlled organizations serving Indians; and

(7) Consortia of eligible entities which meets the legal requirements for a consortium described in paragraph (c) of this section.

§ 668.210 What priority for designation is given to eligible organizations?

(a) Federally-recognized Indian tribes, Alaska Native entities, or consortia that include a tribe or entity will have the highest priority for designation. To be designated, the organizations must meet the requirements in this Subpart. These organizations will be designated for those geographic areas over which they have legal jurisdiction. (WIA section 166(c)(1).)

(b) If the Department decides not to designate Indian tribes or Alaska Native entities to serve their service areas, the Department will enter into arrangements to provide services with entities which the tribes or Alaska Native entities involved approve.

(c) In geographic areas not served by Indian tribes or Alaska Native entities, entities with a Native American-controlled governing body and which are representative of the Native American community or communities involved will have priority for designation.

§ 668.220 What is meant by the ''ability to administer funds'' for designation purposes?

An organization has the ''ability to administer funds'' if it:

(a) Is in compliance with Departmental debt management procedures, if applicable;

(b) Has not been found guilty of fraud or criminal activity which would affect the entity's ability to safeguard Federal funds or deliver program services;

(c) Can demonstrate that it has or can acquire the necessary program and financial management personnel to

safeguard Federal funds and effectively deliver program services; and

(d) Can demonstrate that it has successfully carried out, or has the capacity to successfully carry out activities that will strengthen the ability of the individuals served to obtain or retain unsubsidized employment.

§ 668.230 How will the Department determine an entity's ''ability to administer funds?''

(a) Before determining which entity to designate for a particular service area, the Department will conduct a review of the entity's ability to administer funds.

(b) The review for an entity that has served as a grantee in either of the two designation periods before the one under consideration, also will consider the extent of compliance with these regulations or the JTPA regulations at 20 CFR part 632. Evidence of the ability to administer funds may be established by a satisfactory Federal audit record. It may also be established by a recent record showing substantial compliance with Federal record keeping, reporting, program performance standards, or similar standards imposed on grantees by this or other public sector supported programs.

(c) For other entities, the review includes the experience of the entity's management in administering funds for services to Native American people. This review also includes an assessment of the relationship between the entity and the Native American community or communities to be served.

§ 668.240 What is the process for applying for designation as an INA grantee?

(a) Every entity seeking designation must submit a Notice of Intent (NOI) which complies with the requirements of the Solicitation for Grant Application (SGA). An SGA will be issued every two years, covering all areas except for those for which competition is waived for the incumbent grantee under WIA section 166(c)(2).

(b) NOI's must be submitted to the Chief of DINAP, bearing a U.S. Postal Service postmark indicating its submission no later than October 1st of the year which precedes the first year of a new designation cycle. For NOI's received after October 1, only a timely official U.S. Postal Service postmark is acceptable as proof of timely submission. Dates indicating submission by private express delivery services or metered mail are unacceptable as proof of the timely submission of designation documents.

(c) NOI's must include the following:

(1) Documentation of the legal status of the entity, as described in § 668.200(a)(1);

(2) A Standard Form (SF) 424—Application for Federal Assistance;

(3) A specific description, by State, county, reservation or similar area, or service population, of the geographic area for which the entity requests designation;

(4) A brief summary of the employment and training or human resource development programs serving Native Americans that the entity currently operates or has operated within the previous two-year period.

(5) A description of the planning process used by the entity, including the involvement of the governing body and local employers.

(6) Evidence to establish an entities ability to administer funds under §§ 668.220–668.230.

§ 668.250 What happens if two or more entities apply for the same area?

(a) Every two years, unless there has been a waiver of competition for the area, the Department issues a Solicitation for Grant Application (SGA) seeking applicants for INA program grants.

(b) If two or more entities apply for grants for the same service area, or for overlapping service areas, and a waiver of competition under WIA section 166(c)(2) is not granted to the incumbent grantee, the following additional procedures apply:

(1) The Grant Officer will follow the regulations for priority designation at § 668.210.

(2) If no applicant is entitled to priority designation, DINAP will inform each entity which submitted a NOI, including the incumbent grantee, in writing, of all the competing Notices of Intent no later than November 15 of the year the NOI's are received.

(3) Each entity will have an opportunity to describe its service plan, and may submit additional information addressing the requirements of § 668.240(c) or such other information as the applicant determines is appropriate. Revised Notices must be received or contain an official U.S. Postal Service postmark, no later than January 5th.

(4) The Grant Officer selects the entity that demonstrates the ability to produce the best outcomes for its customers.

§ 668.260 How are INA grantees designated?

(a) On March 1 of each designation year, the Department designates or conditionally designates Native American grantees for the coming two program years. The Grant Officer informs, in writing, each entity which submitted a Notice of Intent that the entity has been:

(1) Designated;

(2) Conditionally designated;

(3) Designated for only a portion of its requested area or population; or

(4) Denied designation.

(b) Designated Native American entities must ensure and provide evidence to DOL that a system is in place to afford all members of the eligible population within their service area an equitable opportunity to receive employment and training activities and services.

§ 668.270 What appeal rights are available to entities that are denied designation?

Any entity that is denied designation in whole or in part for the area or population that it requested may appeal the denial to the Office of the Administrative Law Judges using the procedures at 20 CFR 667.800 or the alternative dispute resolution procedures at 20 CFR 667.840. The Grant Officer will provide an entity whose request for designation was denied, in whole or in part, with a copy of the appeal procedures.

§ 668.280 Are there any other ways in which an entity may be designated as an INA grantee?

Yes, for an area which would otherwise go unserved. The Grant Officer may designate an entity, which has not submitted an NOI, but which meets the qualifications for designation, to serve the particular geographic area. Under such circumstances, DINAP will seek the views of Native American leaders in the area involved about the decision to designate the entity to serve that community. DINAP will inform the Grant Officer of their views. The Grant Officer will accommodate their views to the extent possible.

§ 668.290 Can an INA grantee's designation be terminated?

(a) Yes. The Grant Officer can terminate a grantee's designation for cause, or the Secretary or another DOL official confirmed by the Senate can terminate a grantee's designation in emergency circumstances where termination is necessary to protect the integrity of Federal funds or ensure the proper operation of the program. (WIA sec. 184(e).)

(b) The Grant Officer may terminate a grantee's designation for cause only if there is a substantial or persistent violation of the requirements in the Act or these regulations. The grantee must be provided with written notice 60 days before termination, stating the specific reasons why termination is proposed. The appeal procedures at 20 CFR 667.800 apply.

(c) The Secretary must give a grantee terminated in emergency circumstances prompt notice of the termination and an opportunity for a hearing within 30 days of the termination.

§ 668.292 How does a designated entity become an INA grantee?

A designated entity becomes a grantee on the effective date of an executed grant agreement, signed by the authorized official of the grantee organization and the Grant Officer. The grant agreement includes a set of certifications and assurances that the grantee will comply with the terms of the Act, these regulations, and other appropriate requirements. Funds are released to the grantee upon Departmental approval of the required planning documents, as described in §§ 668.710 through 668.740.

§ 668.294 Does the Department have to designate an INA grantee for every part of the country?

No. Beginning with the PY 2000 grant awards, if there are no entities meeting the requirements for designation in a particular area, or willing to serve that area, the Department will not allocate funds for that service area. The funds allocated to that area will be distributed to the remaining INA grantees, or used for other program purposes such as technical assistance and training (TAT). Remaining funds used for technical assistance and training are in addition to, and not subject to the limitations on, amounts reserved under § 668.296(e). Areas which are unserved by the INA program may be restored during a subsequent designation cycle, when and if a current grantee or other eligible entity applies for and is designated to serve that area.

§ 668.296 How are WIA funds allocated to INA grantees?

(a) Except for reserved funds described in paragraph (e) of this section, all funds available for WIA section 166(d)(2)(A)(i) comprehensive workforce investment services program at the beginning of a Program Year will be allocated to Native American grantees for their designated geographic service areas.

(b) Each INA grantee will receive the sum of the funds calculated under the following formula:

(1) One-quarter of the funds available will be allocated on the basis of the number of unemployed Native American persons in the grantee's designated INA service area(s) compared to all such persons in all such areas in the United States.

(2) Three-quarters of the funds available will be allocated on the basis of the number of Native American persons in poverty in the grantee's designated INA service area(s) as compared to all such persons in all such areas in the United States.

(3) The data and definitions used to implement these formulas is provided by the U.S. Bureau of the Census.

(c) In years immediately following the use of new data in the formula described in paragraph (b) of this section, the Department, based upon criteria to be described in the SGA, may utilize a hold harmless factor to reduce the disruption in grantee services which would otherwise result from changes in funding levels. This factor will be determined in consultation with the grantee community and the Native American Employment and Training Council.

(d) The Department may reallocate funds from one INA grantee to another if a grantee is unable to serve its area for any reason, such as audit or debt problems, criminal activity, internal (political) strife, or lack of ability or interest. Funds may also be reallocated if a grantee has carry-in excess of 20 percent of the total funds available to it. Carry-in amounts greater than 20 percent but less than 25 percent of total funds available may be allowed under an approved waiver issued by DINAP.

(e) The Department may reserve up to one percent (1 percent) of the funds appropriated under WIA section 166(d)(2)(A)(i) for any Program Year for TAT purposes. Technical assistance will be provided in consultation with the Native American Employment and Training Council.

Subpart C—Services to Customers

§ 668.300 Who is eligible to receive services under the INA program?

(a) A person is eligible to receive services under the INA program if that person is:

(1) An Indian, as determined by a policy of the Native American grantee. The grantee's definition must at least include anyone who is a member of a Federally-recognized tribe; or

(2) An Alaska Native, as defined in section 3(b) of the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. 1602(b); or

(3) A Native Hawaiian, as defined in WIA section 166(b)(3).

(b) The person must also be any one of the following:

(1) Unemployed; or

(2) Underemployed, as defined in § 668.150; or

(3) A low-income individual, as defined in WIA section 101(25); or

(4) The recipient of a bona fide lay-off notice which has taken effect in the last six months or will take effect in the following six month period, who is unlikely to return to a previous industry or occupation, and who is in need of retraining for either employment with another employer or for job retention with the current employer; or

(5) An individual who is employed, but is determined by the grantee to be in need of employment and training services to obtain or retain employment that allows for self-sufficiency.

(c) If applicable, male applicants must also register or be registered for the Selective Service.

(d) For purposes of determining whether a person is a low-income individual under paragraph (b)(3) of this section, the Secretary issues guidance for the determination of family income. (WIA sec. 189(h).)

§ 668.340 What are INA grantee allowable activities?

(a) The INA grantee may provide any services consistent with the purposes of this section that are necessary to meet the needs of Native Americans preparing to enter, reenter, or retain unsubsidized employment. (WIA sec. 166(d)(1)(B).) Comprehensive workforce investment activities authorized under WIA section 166(d)(2) include:

(b) Core services, which must be delivered in partnership with the One-Stop delivery system, include:

(1) Outreach;

(2) Intake;

(3) Orientation to services available;

(4) Initial assessment of skill levels, aptitudes, abilities and supportive service needs;

(5) Eligibility certification;

(6) Job Search and placement assistance;

(7) Career counseling;

(8) Provision of employment statistics information and local, regional, and national Labor Market Information;

(9) Provision of information regarding filing of Unemployment Insurance claims;

(10) Assistance in establishing eligibility for Welfare-to-Work programs;

(11) Assistance in establishing eligibility for financial assistance for training;

(12) Provision of information relating to supportive services;

(13) Provision of performance and cost information relating to training providers and training services; and

(14) Follow-up services.

(c) Allowable intensive services which include:

(1) Comprehensive and specialized testing and assessment;

(2) Development of an individual employment plan;

(3) Group counseling;
(4) Individual counseling and career planning;
(5) Case Management for seeking training services;
(6) Short term pre-vocational services;
(7) Work experience in the public or private sector;
(8) Tryout employment;
(9) Dropout prevention activities;
(10) Supportive services; and
(11) Other services identified in the approved Two Year Plan.
(d) Allowable training services which include:
(1) Occupational skill training;
(2) On-the-job training;
(3) Programs that combine workplace training with related instruction, which may include cooperative education programs;
(4) Training programs operated by the private sector;
(5) Skill upgrading and retraining;
(6) Entrepreneurial and small business development technical assistance and training;
(7) Job readiness training;
(8) Adult basic education, GED attainment, literacy training, and English language training, provided in combination with any training services described in paragraphs (d)(1) through (8) of this section;
(9) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of training; and
(10) Educational and tuition assistance.
(e) Allowable activities specifically designed for youth are identified in section 129 of the Act and include:
(1) Improving educational and skill competencies;
(2) Adult mentoring;
(3) Training opportunities;
(4) Supportive services as defined in WIA section 101(46);
(5) Incentive programs for recognition and achievement;
(6) Opportunities for leadership, development, decision-making, citizenship and community service;
(7) Preparation for postsecondary education, academic and occupational learning, unsubsidized employment opportunities, and other effective connections to intermediaries with strong links to the job market and local and regional employers;
(8) Tutoring, study skills training, and other drop-out prevention strategies;
(9) Alternative secondary school services;
(10) Summer employment opportunities that are directly linked to academic and occupational learning;
(11) Paid and unpaid work experiences, including internships and job shadowing;
(12) Occupational skill training;
(13) Leadership development opportunities as defined in § 664.420;
(14) Follow-up services as defined in § 664.450;
(15) Comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral; and
(16) Information and referral.
(f) In addition, allowable activities include job development and employment outreach, including:
(1) Support of the Tribal Employment Rights Office (TERO) program;
(2) Negotiation with employers to encourage them to train and hire participants;
(3) Establishment of linkages with other service providers to aid program participants;
(4) Establishment of management training programs to support tribal administration or enterprises; and
(5) Establishment of linkages with remedial education, such as Adult Basic Education (ABE), basic literacy training, and English-as-a-second-language (ESL) training programs, as necessary.
(g) Participants may be enrolled in more than one activity at a time and may be sequentially enrolled in multiple activities.
(h) INA grantees may provide any services which may be carried out by fund recipients under any provisions of the Act. (WIA section 166(d).)
(i) In addition, INA grantees must develop programs which contribute to occupational development, upward mobility, development of new careers, and opportunities for nontraditional employment. (WIA section 195(1).)

§ 668.350 Are there any restrictions on allowable activities?

(a) All occupational training must be for occupations for which there are employment opportunities in the local area or another area to which the participant is willing to relocate. (WIA sec. 134(d)(4)(A)(iii).)
(b) INA grantees must provide OJT services consistent with the definition provided in WIA section 101(31) and other limitations in the Act. Individuals in OJT must:
(1) Be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; and (WIA sec. 181(a)(1).)
(2) Be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work. (WIA sec. 181(b)(5).)
(c) In addition, OJT contracts under this title must not be entered into with employers who have:
(1) Received payments under previous contracts and have exhibited a pattern of failing to provide OJT participants with continued, long-term employment as regular employees with wages and employment benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same work, or
(2) Who have violated paragraphs (b)(1) and/or (2) of this section. (WIA 195(4).)
(d) INA grantees are prohibited from using funds to encourage the relocation of a business as described in WIA section 181(d) and 20 CFR 667.268.
(e) INA grantees must only use funds for activities which are in addition to those that would otherwise be available to the Native American population in the area in the absence of such funds. (WIA § 195(2).)
(f) INA grantees must not spend funds on activities that displace currently employed individuals, impair existing contracts for services, or in any way affect union organizing. (WIA § 181(b).)

§ 668.360 What is the role of INA grantees in the One-Stop system?

(a) In those local workforce investment areas where there is a INA grantee field office, the INA grantee is a required partner in the local One-Stop delivery system and is subject to the provisions relating to such partners described in 20 CFR part 662. Consistent with those provisions, a Memorandum of Understanding (MOU) between the INA grantee and the Local Board over the operation of the One-Stop Center(s) in the Local Board's workforce investment area must also be executed.
(b) At a minimum, the MOU must contain provisions related to:
(1) The services to be provided through the One-Stop Service System;
(2) The methods for referral of individuals between the One-Stop operator and the INA grantee which take into account the services provided by the INA grantee and the other One-Stop partners;
(3) The exchange of information on the services available and accessible through the One-Stop system and the INA program;
(4) As necessary to provide referrals and case management services, the exchange of information on Native

American participants in the One-Stop system and the INA program;

(5) Arrangements for the funding of services provided by the One-Stop(s), consistent with the requirement that no expenditures may be made with INA program funds for individuals who are not eligible under this part.

(c) The INA grantee's Two Year Plan must describe the efforts the grantee has made to negotiate MOU's consistent with paragraph (b) of this section, for each planning cycle during which Local Boards are operating under the terms of WIA.

§ 668.370 What policies govern payments to participants, including wages, training allowances or stipends, or direct payments for supportive services?

(a) INA grantees may pay training allowances or stipends to participants for their successful participation in and completion of education or training services (except such allowance may not be provided to participants in OJT). Allowances or stipends may not exceed the Federal or State minimum wage, whichever is higher.

(b) INA grantees may not pay a participant in a training activity when the person fails to participate without good cause.

(c) If a participant in a WIA-funded activity is involved in an employer-employee relationship, including participants in OJT, that participant must be paid wages and fringe benefits at the same rates as trainees or employees who have similar training, experience and skills and which are not less than the higher of the applicable Federal, State or local minimum wage. (WIA section 181(a)(1).)

(d) In accordance with the policy described in the two-year plan, INA grantees may pay incentive bonuses to participants who meet or exceed individual employability or training goals established in writing in the individual employment plan.

(e) INA grantees must comply with other restrictions listed in WIA sections 181 through 199 which apply to all programs funded under title I of WIA.

(f) INA grantees must comply with the provisions on labor standards in WIA section 181(b).

§ 668.380 What will DOL do to strengthen the capacity of INA grantees to deliver effective services?

The Department will provide appropriate TAT, as necessary, to INA grantees. This TAT will assist INA grantees to improve program performance and enhance services to the target population(s), as resources permit. (WIA sec. 166(h)(5).)

Subpart D—Supplemental Youth Services

§ 668.400 What is the purpose of the supplemental youth services program?

The purpose of this program is to provide supplemental employment and training and related services to Native American youth on or near Indian reservations, or in Oklahoma, Alaska, and Hawaii. (WIA sec. 166(d)(2)(A)(ii).)

§ 668.410 What entities are eligible to receive supplemental youth services funding?

Eligible recipients for supplemental youth services funding are limited to those tribal, Alaska Native, Native Hawaiian and Oklahoma tribal grantees funded under WIA section 166(d)(2)(A)(i), or other grantees serving those areas and/or populations specified in § 668.400, that received funding under title II–B of the Job Training Partnership Act, or that are designated to serve an eligible area as specified in WIA section 166(d)(2)(A)(ii).

§ 668.420 What are the planning requirements for receiving supplemental youth services funding?

Beginning with PY 2000, eligible INA grantees must describe the supplemental youth services which they intend to provide in their Two Year Plan, (described more fully in §§ 668.710 and 668.720 of this part). This Plan includes the target population the grantee intends to serve, for example, drop-outs, juvenile offenders, and/or college students. It also includes the performance measures/standards to be utilized to measure program progress.

§ 668.430 What individuals are eligible to receive supplemental youth services?

(a) Participants in supplemental youth services activities must be Native Americans, as determined by the INA grantee according to § 668.300(a) and must meet the definition of Eligible Youth, as defined in WIA section 101(13);

(b)Youth participants must be low-income individuals, except that not more than five percent (5%) who do not meet the minimum income criteria, may be considered eligible youth if they meet one or more of the following categories:

(1) School dropouts;

(2) Basic skills deficient as defined in WIA section 101(4);

(3) Have educational attainment that is one or more grade levels below the grade level appropriate to their age group;

(4) Pregnant or parenting;

(5) Have disabilities, including learning disabilities;

(6) Homeless or runaway youth;

(7) Offenders; or

(8) Other eligible youth who face serious barriers to employment as identified by the grantee in its Plan. (WIA section 129(c)(5).)

§ 668.440 How is funding for supplemental youth services determined?

(a) Beginning with PY 2000, supplemental youth funding will be allocated to eligible INA grantees on the basis of the relative number of Native American youth between the ages of 14 and 21, inclusive, in the grantee's designated INA service area as compared to the number of Native American youth in other INA service areas.

(b) The data used to implement this formula is provided by the U.S. Bureau of the Census.

(c) The hold harmless factor described in § 668.296(c) also applies to supplemental youth services funding. This factor also will be determined in consultation with the grantee community and the Native American Employment and Training Council.

(d) The reallocation provisions of § 668.296(d) will also apply to supplemental youth services funding.

(e) Any supplemental youth services funds not allotted to a grantee or refused by a grantee may be used for the purposes outlined in § 668.296(e). Any such funds are in addition to, and not subject to the limitations on, amounts reserved under § 668.296(e).

§ 668.450 How will supplemental youth services to be provided?

(a) INA grantees may offer supplemental services to youth throughout the school year, during the summer vacation, and/or during other breaks during the school year at their discretion;

(b) The Department encourages INA grantees to work with Local Educational Agencies to provide academic credit for youth activities whenever possible;

(c) INA grantees may provide participating youth with the activities listed in 20 CFR 668.340(e).

§ 668.460 Are there performance measures and standards applicable to the supplemental youth services program?

Yes. WIA section 166(e)(5) requires that the program plan contain a description of the performance measures to be used to assess the performance of grantees in carrying out the activities assisted under this section. Specific indicators of performance and levels of performance for supplemental youth services activities will be developed by the Department in partnership with the Native American

Employment and Training Council, and transmitted to INA grantees as an administrative issuance.

Subpart E—Services to Communities

§ 668.500 What services may INA grantees provide to or for employers under section 166?

(a) INA grantees may provide a variety of services to employers in their areas. These services may include:

(1) Workforce planning which involves the recruitment of current or potential program participants, including job restructuring services;

(2) Recruitment and assessment of potential employees, with priority given to potential employees who are or who might become eligible for program services;

(3) Pre-employment training;

(4) Customized training;

(5) On-the-Job training (OJT);

(6) Post-employment services, including training and support services to encourage job retention and upgrading;

(7) Work experience for public or private sector work sites;

(8) Other innovative forms of worksite training.

(b) In addition to the services listed above, other grantee-determined services intended to assist eligible participants to obtain or retain employment may also be provided to or for employers approved in the grantee's Two Year Plan.

§ 668.510 What services may INA grantees provide to the community at large under section 166?

(a) INA grantees may provide services to the Native American communities in their designated service areas by engaging in program development and service delivery activities which:

(1) Strengthen the capacity of Native American-controlled institutions to provide education and work-based learning services to Native American youth and adults, whether directly or through other Native American institutions such as tribal colleges;

(2) Increase the community's capacity to deliver supportive services, such as child care, transportation, housing, health, and similar services needed by clients to obtain and retain employment;

(3) Use program participants engaged in education, training, work experience, or similar activities to further the economic and social development of Native American communities in accordance with the goals and values of those communities; and

(4) Engage in other community-building activities described in the INA grantee's Two Year Plan.

(b) INA grantees should develop their Two Year Plan in conjunction with, and in support of, strategic tribal planning and community development goals.

§ 668.520 Must INA grantees give preference to Indian/Native American entities in the selection of contractors or service providers?

Yes. INA grantees must give as much preference as possible to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452), when awarding any contract or subgrant.

§ 668.530 What rules govern the issuance of contracts and/or subgrants?

In general, INA grantees must follow the rules of OMB Circulars A–102 (for tribes) or A–110 (for private non-profits) when awarding contracts and/or subgrants under WIA section 166. The common rules implementing those circulars are codified for DOL-funded programs at 29 CFR part 97 (A–102) or 29 CFR part 95 (A–110), and covered in the WIA regulations at 20 CFR 667.200. These rules do not apply to OJT contract awards.

Subpart F—Accountability for Services and Expenditures

§ 668.600 To whom is the INA grantee accountable for the provision of services and the expenditure of INA funds?

(a) The INA grantee is responsible to the Native American community to be served by INA funds.

(b) The INA grantee is also responsible to the Department of Labor, which is charged by law with ensuring that all WIA funds are expended:

(1) according to applicable laws and regulations;

(2) for the benefit of the identified Native American client group; and

(3) for the purposes approved in the grantee's plan and signed grant document.

§ 668.610 How is this accountability documented and fulfilled?

(a) Each INA grantee must establish its own internal policies and procedures to ensure accountability to the INA grantee's governing body, as the representative of the Native American community(ies) served by the INA program. At a minimum, these policies and procedures must provide a system for governing body review and oversight of program plans and measures and standards for program performance.

(b) Accountability to the Department is accomplished in part through on-site program reviews (monitoring), which strengthen the INA grantee's capability to deliver effective services and protect the integrity of Federal funds.

(c) In addition to audit information, as described at § 668.850, and program reviews, accountability to the Department is documented and fulfilled by the submission of reports. These report requirements are as follows:

(1) Each INA grantee must submit an annual report on program participants and activities. This report must be received no later than 90 days after the end of the Program Year, and may be combined with the report on program expenditures. The reporting format is developed by DINAP, in consultation with the Native American Advisory Council, and published in the **Federal Register**.

(2) Each INA grantee must submit an annual report on program expenditures. This report must be received no later than 90 days after the end of the Program Year, and may be combined with the report on program participants and activities. For the purposes of report submission, a postmark or date indicating receipt by a private express delivery service is acceptable proof of timely submission.

(3) INA grantees are encouraged, but not required, to submit a descriptive narrative with their annual reports describing the barriers to successful plan implementation they have encountered. This narrative should also discuss program successes and other notable occurrences that effected the INA grantee's overall performance that year.

(4) Each INA grantee may be required to submit interim reports on program participants and activities and/or program expenditures during the Program Year. Interim reports must be received no later than 45 days after the end of the reporting period.

§ 668.620 What performance measures are in place for the INA program?

Indicators of performance measures and levels of performance in use for INA program will be those indicators and standards proposed in individual grantee plans and approved by DOL, in accordance with guidelines developed by the Department in consultation with INA grantees under WIA section 166(h)(2)(A).

§ 668.630 What are the requirements for preventing fraud and abuse under section 166?

(a) Each INA grantee must implement program and financial management procedures to prevent fraud and abuse. Such procedures must include a process which enables the grantee to take action against contractors or subgrantees to

prevent any misuse of funds. (WIA sec. 184.)

(b) Each INA grantee must have rules to prevent conflict of interest by its governing body. These conflict of interest rules must include a rule prohibiting any member of any governing body or council associated with the INA grantee from voting on any matter which would provide a direct financial benefit to that member, or to a member of his or her immediate family, in accordance with 20 CFR 667.200(a)(4) and 29 CFR 97.36(b) or 29 CFR 95.42.

(c) Officers or agents of the INA grantee must not solicit or personally accept gratuities, favors, or anything of monetary value from any actual or potential contractor, subgrantee, vendor or participant. This rule must also apply to officers or agents of the grantee's contractors and/or subgrantees. This prohibition does not apply to:

(1) Any rebate, discount or similar incentive provided by a vendor to its customers as a regular feature of its business;

(2) Items of nominal monetary value distributed consistent with the cultural practices of the Native American community served by the grantee.

(d) No person who selects program participants or authorizes the services provided to them may select or authorize services to any participant who is such a person's husband, wife, father, mother, brother, sister, son, or daughter unless:

(1)(i) The participant involved is a low income individual; or

(ii) The community in which the participant resides has a population of less than 1,000 Native American people; and

(2) The INA grantee has adopted and implemented the policy described in the Two Year Plan to prevent favoritism on behalf of such relatives.

(e) INA grantees are subject to the provisions of 41 U.S.C. 53 relating to kickbacks.

(f) No assistance provided under this Act may involve political activities. (WIA section 195(6).)

(g) INA grantees may not use funds under this Act for lobbying as provided in 29 CFR part 93.

(h) The provisions of 18 U.S.C. 665 and 666 regarding embezzlement apply to programs under WIA.

(i) Sectarian activities involving WIA funding or participants are prohibited.

(j) INA grantees are prohibited from discriminatory practices as outlined at WIA section 188, and the regulations implementing WIA section 188. However, this does not affect the legal requirement that all INA participants be Native American. Also, INA grantees are not obligated to serve populations other than those for which they were designated.

§ 668.640 What grievance systems must a section 166 program provide?

INA grantees must establish grievance procedures consistent with the requirements of WIA section 181(c) and 20 CFR 667.600.

§ 668.650 Can INA grantees exclude eligible segments of the population?

(a) No. INA grantees cannot exclude segments of the eligible population. INA grantees must document in their Two Year Plan that a system is in place to afford all members of the eligible population within the service area for which the grantee was designated an equitable opportunity to receive WIA services and activities.

(b) Nothing in this section restricts the ability of INA grantees to target subgroups of the eligible population (for example, the disabled, substance abusers, TANF recipients, or similar categories), as outlined in an approved Two Year Plan.

Subpart G—Section 166 Planning/ Funding Process

§ 668.700 What process must an INA grantee use to plan its employment and training services ?

(a) The INA grantee may utilize the planning procedures it uses to plan other activities and services.

(b) However, in the process of preparing its Two Year Plan for Native American WIA services, the INA grantee must consult with:

(1) Customers or prospective customers of such services;

(2) Prospective employers of program participants or their representatives;

(3) Service providers, including local educational agencies, which can provide services which support or are complementary to the grantee's own services; and

(4) Tribal or other community officials responsible for the development and administration of strategic community development efforts.

§ 668.710 What planning documents must an INA grantee submit to the Department?

Each grantee receiving funds under WIA sec. 166 must submit to DINAP a comprehensive services plan and a projection of participant services and expenditures covering the two-year planning cycle. The Department will, in consultation with the Native American Advisory Council, issue budget and planning instructions which grantees must use when preparing their plan.

§ 668.720 What information must these planning documents contain?

(a) The comprehensive services plan must cover the two Program Years included within a designation cycle. According to planning instructions issued by the Department, the comprehensive services plan must describe in narrative form:

(1) The specific goals of the INA grantee's program for the two Program Years involved;

(2) The method the INA grantee will use to target its services on specific segments of its service population;

(3) The array of services which the INA grantee intends to make available;

(4) The system the INA grantee will use to be accountable for the results of its program services. Such results must be judged in terms of the outcomes for individual participants and/or the benefits the program provides to the Native American community(ies) which the INA grantee serves. Plans must include the performance information required by § 668.620;

(5) The ways in which the INA grantee will seek to integrate or coordinate and ensure nonduplication of its employment and training services with:

(i) The One-Stop delivery system in its local workforce investment area, including a description of any MOU's which affect the grantee's participation;

(ii) Other services provided by local Workforce Investment Boards;

(iii) Other program operators;

(iv) Other services available within the grantee organization; and

(v) Other services which are available to Native Americans in the community, including planned participation in the One-Stop system.

(b) Beginning in PY 2000, eligible INA grantees must include in their plan narratives a description of activities planned under the supplemental youth program, including items described in paragraph (a) (1) through (5) of this section.

(c) INA grantees must include a detailed budget of proposed Administrative Costs, utilizing the definition at 20 CFR 667.220, to use as a basis of negotiation with DINAP.

(d) INA grantees' plans must contain a projection of participant services and expenditures for each Program Year, consistent with guidance issued by the Department.

(e) For PY 1999, INA grantees who are early implementers under WIA must prepare and submit an Annual Plan rather than a Two Year Plan.

§ 668.730 When must these plans be submitted?

(a) The two-year plans are due at a date specified by DINAP in the year in which the two-year designation cycle begins. The Department will announce exact submission dates in the biennial planning instructions.

(b) Plans from INA grantees who are eligible for supplemental youth services funds must include their supplemental youth plans as part of their regular Two Year Plan. For PY 1999, a separate youth plan is required, and INA grantees will be required to submit their plans early, to allow for prompt funding of the youth component.

(c) INA grantees must submit modifications for the second year reflecting exact funding amounts, after the individual allotments have been determined. They will be submitted at a time determined by the Department, but no later than June 1 prior to the beginning of the second year of the designation cycle.

§ 668.740 How will the Department review and approve such plans?

(a) The Department will approve a grantee's planning documents prior to the date on which funds for the program become available unless:

(1) The planning documents do not contain the information specified in these regulations; or

(2) The services which the INA grantee proposes are not permitted under WIA or applicable regulations.

(b) The Department may approve a portion of the plan, and disapprove other portions. The grantee also has the right to appeal the Department's decision to the Office of the Administrative Law Judges under the procedures at 20 CFR 667.800 or 667.840. While the INA grantee exercises its right to appeal, the grantee must implement the approved portions of the plan.

(c) If the Department disapproves all or part of an INA grantee's plan, and that disapproval is sustained in the appeal process, the INA grantee will be given the opportunity to amend its plan so that it can be approved.

(d) If an INA grantee's plan is amended but is still disapproved, the grantee will have the right to appeal the Department's decision to the Offices of the Administrative Law Judges under the procedures at 20 CFR 667.800 or 667.840.

§ 668.750 Under what circumstances can the Department or the INA grantee modify the terms of the grantee's plan(s)?

(a) The Department may unilaterally modify the INA grantee's plan to add funds or, if required by Congressional action, to reduce the amount of funds available for expenditure.

(b) The INA grantee may request Departmental approval to modify its plan to add, expand, delete, or diminish any service allowable under these regulations. The INA grantee may modify its plan without Departmental approval, unless the modification reduces the total number of participants to be served annually under the grantee's program by a number which exceeds 25 percent of the participants previously proposed to be served, or by 25 participants, whichever is larger.

(c) The Department will act upon any modification within thirty (30) calendar days of receipt of the proposed modification. In the event that further clarification or modification is required, the Department may extend the thirty (30) day time frame to conclude appropriate negotiations.

Subpart H—Administrative Requirements

§ 668.800 What systems must an INA grantee have in place to administer an INA program?

(a) Each INA grantee must have a written system describing the procedures the grantee uses with respect to:

(1) The hiring and management of personnel paid with program funds;

(2) The acquisition and management of property purchased with program funds;

(3) Financial management practices;

(4) A participant grievance system which meets the requirements in section 181(c) of WIA and 20 CFR 667.600; and

(5) A participant records system.

(b) Participant records systems must include:

(1) A written or computerized record containing all the information used to determine the person's eligibility to receive program services;

(2) The participant's signature certifying that all the eligibility information he or she provided is true to the best of his/her knowledge; and

(3) The information necessary to comply with all program reporting requirements.

§ 668.810 What types of costs are allowable expenditures under the INA program?

Rules relating to allowable costs under WIA are covered in the consolidated regulations at 20 CFR 667.200 through 667.220.

§ 668.820 What rules apply to administrative costs under the INA program?

The definition and treatment of administrative costs are covered in the consolidated regulations at 20 CFR 667.210 and 667.220.

§ 668.830 How should INA program grantees classify costs?

Cost classification is covered in the WIA regulations at 20 CFR 667.200 through 667.220. For purposes of the INA program, program costs also include costs associated with other activities such as Tribal Employment Rights Office (TERO), and supportive services as defined in WIA sec. 101(46).

§ 668.840 What cost principles apply to INA funds?

The cost principles described in OMB Circulars A–87 (for tribal governments), A–122 (for private non-profits), and A–21 (for educational institutions), and the regulations at 20 CFR 667.200(c), apply to INA grantees, depending on the nature of the grantee organization.

§ 668.850 What audit requirements apply to INA grants?

The audit requirements established under the Department's regulations at 29 CFR part 99, which implement OMB Circular A–133, apply to all Native American WIA grants. These regulations, for all of WIA, are cited at 20 CFR 667.200(b). Audit resolution procedures are covered at 20 CFR 667.500 and 667.510.

§ 668.860 What cash management procedures apply to INA grant funds?

INA grantees must draw down funds only as they actually need them. The U.S. Department of Treasury regulations which implement the Cash Management Improvement Act, found at 31 CFR part 205, apply by law to most recipients of Federal funds. Special rules may apply to those grantees required to keep their funds in interest-bearing accounts, and to grantees participating in the demonstration under Pub. L. 102–477.

§ 668.870 What is ''program income'' and how is it regulated in the INA program?

(a) Program income is defined and regulated by WIA section 195(7), 20 CFR 667.200(a)(5) and the applicable rules in 29 CFR parts 95 and 97.

(b) For grants made under this part, program income does not include income generated by the work of a work experience participant in an enterprise, including an enterprise owned by an Indian tribe or Alaska Native entity, whether in the public or private sector.

(c) Program income does not include income generated by the work of an OJT

participant in an establishment under paragraph (b) of this section.

Subpart I—Miscellaneous Program Provisions

§ 668.900 Does the WIA provide regulatory and/or statutory waiver authority?

Yes. WIA section 166(h)(3) permits waivers of any statutory or regulatory requirement imposed upon INA grantees (except for the areas cited in § 668.920). Such waivers may include those necessary to facilitate WIA support of long term community development goals.

§ 668.910 What information is required to document a requested waiver?

To request a waiver, an INA grantee must submit a plan indicating how the waiver will improve the grantee's WIA program activities. The Department will provide further guidance on the waiver process, consistent with the provisions of WIA section 166(h)(3).

§ 668.920 What provisions of law or regulations may not be waived?

Requirements relating to:
(a) Wage and labor standards;
(b) Worker rights;
(c) Participation and protection of workers and participants;
(d) Grievance procedures;
(e) Judicial review; and
(f) Non-discrimination may not be waived. (WIA sec 166(h)(3)(A).)

§ 668.930 May INA grantees combine or consolidate their employment and training funds?

Yes. INA grantees may consolidate their employment and training funds under WIA with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (Pub. L. 102–477) (25 U.S.C. 3401 *et seq.*). Also, Federally-recognized tribes that administer INA funds and funds provided by more than one State under other sections of WIA title I may enter into an agreement with the Governors to transfer the State funds to the INA program. (WIA sec. 166(f) and (h)(6).)

§ 668.940 What is the role of the Native American Employment and Training Council?

The Native American Employment and Training Council is a body composed of representatives of the grantee community which advises the Secretary on all aspects of Native American employment and training program implementation. WIA section 166(h)(4) continues the Council essentially as it is currently constituted, with the exception that all the Council members no longer have to be Native American. However, the nature of the consultative process remains essentially unchanged. The Department continues to support the Council.

PART 669—MIGRANT AND SEASONAL FARMWORKER PROGRAMS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

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Sec.

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Authority: section 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c)

Subpart A—Purpose and Definitions

§ 669.100 What is the purpose of the Migrant and Seasonal Farmworker (MSFW) program established under WIA section 167?

The purpose of the MSFW Program is to strengthen the ability of eligible migrant and seasonal farmworkers and their families to achieve economic self-sufficiency. This part provides the regulatory requirements applicable to the expenditure of WIA section 167 funds for such program.

§ 669.110 What definitions apply to this program?

In addition to the definitions found in WIA secs. 101 and 167 and in 20 CFR 660.330, the following definitions apply to programs under this subpart:

Allowances means direct payments, which must not exceed the higher of the State or Federal minimum wage, made to MSFW participants during their enrollment to enable them to participate in training services.

Capacity enhancement means the technical assistance afforded to grantees and grantee staff by the Department to improve the quality of the program and the delivery of program services to MSFWs.

Department means the U.S. Department of Labor, including its agencies and organizational units, unless otherwise indicated.

Disadvantaged means a farmworker whose income, for any 12 consecutive months out of the 24 months immediately before the farmworker applies for the program, does not exceed the higher of either the poverty line or 70 percent of the lower living standard income level.

DSFP means the Division of Seasonal Farmworker Programs within the Employment and Training Administration of the Department, or a successor organizational unit.

Eligibility determination period means any consecutive 12-month period within the 24-month period immediately preceding the date of application for the MSFW program by the applicant farmworker.

Emergency Assistance means assistance that addresses immediate needs of farmworkers and their families, provided by MSFW grantees. Except for evidence to support legal working status in the United States and Selective Service registration, where applicable, the applicant's self-attestation is accepted as eligibility for emergency assistance.

Farmwork means those occupations in the agricultural industries identified by the Department for inclusion in its allocation formula for MSFW-funded programs.

MSFW program grantee means an entity which is awarded a WIA grant directly from the Department to carry out the MSFW program in one or more designated States or substate areas.

MSFW means a Migrant or Seasonal Farmworker under WIA section 167.

MOU means Memorandum of Understanding.

Self-certification means a farmworker's signed attestation that the information he/she submits to demonstrate eligibility for the MSFW program is true and accurate.

Service area means the geographical jurisdiction in which a WIA section 167 grantee is designated to operate.

Work experience means a planned, structured learning experience that takes place in a workplace for a limited period of time. Work experience may paid or unpaid, as appropriate.

§ 669.120 How is the MSFW program administered by the Department of Labor?

This program is centrally administered by the Department of Labor in a manner consistent with the requirements of WIA section 167. As described in § 669.210, the Secretary designates grantees using procedures consistent with standard Federal government competitive procedures. The Secretary awards other grants and contracts using similar competitive procedures.

§ 669.130 What unit within the Department administers the Migrant and Seasonal Farmworker programs funded under WIA section 167?

The Department has designated the Division of Seasonal Farmworker Programs (DSFP), or its successor organization, within the Employment and Training Administration, as the organizational unit that administers MSFW programs at the Federal level.

§ 669.140 How does the DSFP assist the MSFW grantee organizations serve farmworker customers?

The Department provides technical assistance and training to MSFW grantees, for the purposes of program implementation and program performance management leading to enhancement of services to and continuous improvement in the employment outcomes of farmworkers.

§ 669.150 How are regulations established for this program?

In developing regulations for WIA section 167, the Secretary consults with the Migrant and Seasonal Farmworker Employment and Training Advisory Committee. The regulations and program guidance consider the economic circumstances and demographics of eligible migrant and seasonal farmworkers.

§ 669.160 How does the Department consult with MSFW organizations in developing rules, regulations and standards of accountability and other policy guidance for the MSFW Programs?

(a) The Department considers the MSFW grantee community as a full partner in the development of policies for the MSFW programs under the Act.

(b) The Department has established and continues to support the MSFW Employment and Training Advisory Committee. Through the Advisory Committee, the Department actively seeks and considers the views of the grantee community prior to establishing policies and/or program regulations, according to the requirements of WIA section 167.

§ 669.170 What WIA regulations apply to the programs funded under WIA section 167?

(a) The regulations found in this subpart;

(b) The general administrative requirements found in 20 CFR part 667, including the regulations concerning Complaints, Investigations and Hearings found at 20 CFR part 667, subpart E through subpart H, which cover programs under WIA section 167;

(c) The Department's regulations codifying the common rules implementing Office of Management and Budget (OMB) Circulars, which generally apply to Federal programs carried out by State and local governments and nonprofit organizations at 29 CFR parts 95, 96, 97, and 99, as applicable.

Subpart B—MSFW Program's Service Delivery System

§ 669.200 Who is eligible to receive a MSFW grant?

(a) To be eligible to receive a grant under this section, an entity must have:

(1) An understanding of the problems of eligible migrant and seasonal farmworkers and their dependents;

(2) A familiarity with the agricultural industry and the labor market needs of the geographic area to be served;

(3) The capacity to effectively administer a diversified program of workforce investment activities and related assistance for eligible migrant and seasonal farmworkers (including farmworker youth) as described in paragraph (b) of this section.

(b) For purposes of paragraph (a)(3) of this section, an entity's ''capacity to effectively administer'' a program may be demonstrated by:

(1) Organizational experience; or

(2) Significant experience of its key staff in administering similar programs.

§ 669.210 How does an eligible entity become a MSFW grantee?

To become a MSFW grantee and receive a grant under this subpart, the entity must respond to a Solicitation for Grant Applications (SGA). The SGA may contain additional requirements for the grant application or the grantee's two-year plan. Under the SGA, grantees

will be selected using standard Federal Government competitive procedures. The entity's proposal must describe a two-year strategy for meeting the needs of eligible migrant and seasonal farmworkers in the geographic area the entity seeks to serve.

§ 669.220 What is the role of the MSFW grantee in the One-Stop delivery system?

(a) In those local areas where there is a grantee MSFW field office, the grantee is a required partner of the local One-Stop delivery system and is subject to the provisions relating to such partners described in 20 CFR part 662. Consistent with those provisions, the grantee and the Local Board must negotiate an MOU which sets forth their respective responsibilities for making the full range of core services available to farmworkers. In local areas without a grantee MSFW field office but with a large concentration of MSFWs, the grantee should consider the availability of electronic connections and other means to participate in the One-stop system in that area, in order to serve those individuals.

(b) The MOU should reflect appropriate and equitable services to MSFWs, and may include costs of services to MSFWs incurred by the One-Stop that extend beyond Wagner-Peyser funded services and activities.

§ 669.230 Can a MSFW grantee's designation be terminated?

Yes, a grantee's designation may be terminated for cause:

(a) By the Secretary, in emergency circumstances when such action is necessary to protect the integrity of Federal funds or ensure the proper operation of the program. Any grantee so terminated will be provided with written notice and an opportunity for a hearing within 30 days after the termination (WIA sec. 184(e).); or

(b) By the Grant Officer, if there is a substantial or persistent violation of the requirements in the Act or these regulations. In such a case, the Grant Officer must provide the grantee with 60 days prior written notice, stating the reasons why termination is proposed, and the applicable appeal procedures.

§ 669.240 How will the Department use funds appropriated under WIA section 167 for MSFW programs?

(a) At least 94 percent of the funds appropriated each year for WIA section 167 activities must be allocated to State service areas, based on the distribution of the eligible MSFW population determined under a formula which has been published in the **Federal Register**. Grants are awarded under the competitive process for the provision of services to eligible farmworkers within each service area.

(b) The balance, 6 percent of the appropriated funds, will be used for discretionary purposes for such activities as grantee technical assistance and support of farmworker housing activities.

Subpart C—MSFW Program Customers and Available Program Services

§ 669.300 What are the general responsibilities of the MSFW grantees?

Each grantee is responsible for providing needed services in accordance with a service delivery strategy described in its approved grant plan. These services must reflect the needs of the MSFW population in the service area and include the services and training activities that are necessary to achieve each participant's employment goals.

§ 669.310 What are the basic components of a MSFW service delivery strategy?

The MSFW service delivery strategy must include:

(a) A customer-centered case management approach;

(b) The provision of workforce investment activities, which include, core services, intensive services, and training services as described in WIA section 134, as appropriate;

(c) The arrangements under the MOUs with the applicable Local Workforce Investment Boards for the delivery of core services to MSFWs.

§ 669.320 Who is eligible to receive services under the MSFW Program?

Disadvantaged migrant and seasonal farmworkers, as defined in § 669.110, and their dependents are eligible for services funded by the MSFW program.

§ 669.330 How are services delivered to the customer?

To ensure that all services are focused on the customer's needs, services are provided through a case-management approach and may include: Core, intensive and training services; and related assistance, which includes emergency assistance and supportive services. The basic services and delivery of case-management activities are further described at §§ 669.340 through 669.410 of this subpart. Consistent with 20 CFR part 663, prior to intensive services, a participant must receive at least one core service, and, prior to training services, a participant must receive at least one intensive service.

§ 669.340 What core services are available to eligible MSFWs?

The core services identified in WIA section 134(d)(2).

§ 669.350 How are core services delivered to MSFWs?

(a) The full range of core services are available to MSFWs, as well as other individuals, at One-Stop Centers as described in 20 CFR part 662.

(b) Where a MSFW field office is located within the workforce investment area of a One-Stop center, core services must be made available through the One-Stop delivery system, as determined in the required MOU between the Local Board and the MSFW grantee.

§ 669.360 May grantees provide emergency assistance to MSFWs?

(a) Yes. Emergency assistance (as defined in § 669.110 of this part) is a form of the related assistance that is authorized under WIA section 167(d) and may be provided by a grantee as described in the grant plan.

(b) In providing emergency assistance, the MSFW may use an abbreviated eligibility determination process that accepts the applicant's self-attestation as final evidence of eligibility, except that self-attestation may not be used to establish the requirements of legal working status in the United States, and Selective Service registration, where applicable.

§ 669.370 What intensive services may be provided to eligible MSFWs?

(a) Intensive services available to farmworkers include those described in WIA section 134(d)(3)(C).

(b) Intensive services may also include:

(1) Dropout prevention activities;

(2) Allowance payments;

(3) Work experience, which:

(i) Is designed to promote the development of good work habits and basic work skills at the work-site (work experience may be conducted with public and private non-profit and private for-profit sectors); and

(ii) Compensates participants at no less than the applicable State or Federal minimum wage.

(4) Literacy and English-as-a-Second language; and

(5) Other services identified in the approved grant plan.

§ 669.380 What is the objective assessment that is authorized as an intensive service?

(a) An objective assessment is a procedure designed to comprehensively assess the skills, abilities, and interests of each employment and training

participant through the use of diagnostic testing and other assessment tools. The methods used by the grantee in conducting the objective assessment may include:

(1) Structured in-depth interviews;

(2) Skills and aptitude assessments;

(3) Performance assessments (for example, skills or work samples, including those that measure interest and capability to train in nontraditional employment);

(4) Interest or attitude inventories;

(5) Career guidance instruments;

(6) Aptitude tests; and

(7) Basic skills tests.

(b) The objective assessment is an ongoing process that requires the grantee staff to remain in close consultation with each participant to continuously obtain current information about the participant's progress that may be relevant to his/her Individual Employment Plan (IEP).

§ 669.400 What are the elements of the IEP that is authorized as an intensive service?

The elements of the IEP are:

(a) Joint development: The grantee develops the IEP in partnership with the participant;

(b) Customer focus: The combination of services chosen with the participant must be consistent with the results of any objective assessment, responsive to the expressed goals of the participant, and must include periodic evaluation of planned goals and a record of accomplishments in consultation with the participant;

(c) Length/type of service: The type and duration of intensive or training services must be based upon:

(1) The employment/career goal;

(2) Referrals to other programs for specified activities; and

(3) The delivery agents and schedules for intensive services, training and training-related supportive services; and

(d) Privacy: As a customer-centered case management tool, an IEP is a personal record and must receive confidential treatment.

§ 669.410 What training services may be provided to eligible MSFWs?

(a) Training services include those described in WIA sections 134(d)(4)(D) and 167(d), and may be described in the IEP and may include:

(1) On-the-job training activities under a contract between the participating employer and the grantee;

(2) Workplace safety and farmworker pesticide training;

(3) Housing development assistance;

(4) Training-related supportive services; and

(b) Other training activities identified in the approved grant plan.

§ 669.420 What must be included in an on-the-job training contract?

At a minimum, the on-the-job training contract must include:

(a) The occupation(s) for which training is to be provided;

(b) The duration of training;

(c) The wage rate to be paid to the trainee;

(d) The rate of reimbursement;

(e) The maximum amount of reimbursement;

(f) A training outline that reflects the work skills required for the position;

(g) An outline of any other separate classroom training that may be provided by the employer;

(h) Application of the general program requirements of WIA section 195(4) and section 101(31); and

(i) The employer's agreement to maintain and make available time and attendance, payroll and other records to support amounts claimed by the employer for reimbursement under the OJT contract;

Subpart D—Performance Accountability, Planning and Waiver Provision

§ 669.500 What performance measures and standards apply to the MSFW Program?

(a) The MSFW program will use the core indicators of performance common to the adult and youth programs, described in 20 CFR part 666. The levels of performance for the farmworker indicators will be established pursuant to a negotiation between the Department and the grantee. The levels must take into account the characteristics of the population to be served and the economic conditions in the service area. Proposed levels of performance are to be included in the grantee plan submission, and the agreed to levels must be included in the approved plan.

(b) The Department may develop additional performance indicators with appropriate levels of performance for evaluating programs that serve farmworkers and which are reflective of the State service area economy and local demographics of eligible MSFWs. The levels of performance for these additional indicators must be negotiated with the grantee and included in the approved plan.

§ 669.510 What planning documents must a MSFW grantee submit to the Department?

Each grantee receiving WIA section 167 program funds must submit to DSFP a comprehensive service delivery plan and a projection of participant services and expenditures covering the two-year designation cycle.

§ 669.520 What information is required in the MSFW grant plans?

An MSFW grantee's biennial plan must describe:

(a) The employment and education needs of the farmworker population to be served;

(b) The manner in which proposed services to farmworkers and their families will strengthen their ability to obtain or retain employment or stabilize their agricultural employment;

(c) The related assistance and supportive services to be provided and the manner in which such assistance and services are to be coordinated with other available services;

(d) The performance indicators and proposed levels of performance used to assess the performance of such entity, including the specific goals of the grantee's program for the two Program Years involved;

(e) The method the grantee will use to target its services on specific segments of the eligible population, as appropriate;

(f) The array of services which the grantee intends to make available, with costs specified on forms prescribed by the Department. These forms will indicate how many participants the grantee expects to serve, by activity, the results expected under the grantee's plan, and the anticipated expenditures by cost category; and

(g) Its response to any other requirements set forth in the SGA issued under § 669.210 of this part.

§ 669.530 What are the submission dates for these plans?

Plan submission dates will be announced by the Department in the SGA issued under § 669.220 of this part.

§ 669.540 Under what circumstances are the terms of the grantee's plan modified by the grantee or the Department?

(a) Plans must be modified to reflect the funding level for the second year of the designation cycle. Modifications for second year funding must be submitted at a time to be determined by the Department, generally no later than June 1 prior to the beginning of the second year of the designation cycle.

(b) The Department may unilaterally modify the grantee's plan to add funds or, if the total amount of funds available for allotment is reduced by Congress, to reduce each grantee's grant amount.

(c) The grantee may modify its plan to add, delete, expand, or reduce any part of the program plan or allowable activities. Such modifications may be made by the grantee without Departmental approval except where the modification reduces the total number

of participants to be served annually under intensive and/or training services by 15 percent or more, in which case the plan may only be modified with Departmental approval.

(d) If the grantee is approved for a regulatory waiver under §§ 669.560 and 669.570, the grantee must submit a modification of its service delivery plan to reflect the effect of the waiver.

§ 669.550 How are costs classified under the MSFW Program?

Costs are classified as follows:

(a) Administrative costs, as defined in 20 CFR 667.220; and

(b) Program costs, which are all other costs not defined as administrative.

Program costs must be classified and reported in the following categories:

(1) Related assistance including emergency assistance and supportive services, including allocated staff costs; and

(2) All other program services, including allocated staff costs.

§ 669.560 Are there regulatory and/or statutory waiver provisions that apply to WIA section 167?

(a) The statutory waiver provision at WIA section 189(i) does not apply to WIA section 167.

(b) MSFW grantees may request waiver of any regulatory provisions only when such regulatory provisions are:

(1) Not required by WIA;

(2) Not related to wage and labor standards, nondisplacement protection, worker rights, participation and protection of workers and participants, and eligibility of participants, grievance procedures, judicial review, nondiscrimination, allocation of funds, procedures for review and approval of plans; and

(3) Not related to the key reform principles embodied in WIA, described in 20 CFR 661.400.

§ 669.570 What information is required to document a requested waiver?

(a) To request a waiver, a grantee must submit a waiver plan that:

(1) Describes the goals of the waiver, the expected programmatic outcomes, and how the waiver will improve the provision of WIA activities;

(2) Is consistent with guidelines established by the Department and the waiver provisions at 20 CFR 661.400 through 661.420; and

(b) Includes a modified service delivery plan reflecting the effect of requested waiver.

Subpart E—The MSFW Youth Program

§ 669.600 What is the purpose of the WIA section 167 MSFW Youth Program?

The purpose of the MSFW youth program is to provide an effective and comprehensive array of educational opportunities, employment skills, and life enhancement activities to at-risk and out-of-school MSFW youth that lead to success in school, economic stability and development into productive members of society.

§ 669.610 What is the relationship between the MSFW youth program and the MSFW program authorized at WIA section 167?

The MSFW youth program is funded under WIA section 127(b)(1)(A)(iii) to provide farmworker youth activities under the auspices of WIA section 167. These funds are specifically earmarked for MSFW youth. Funds provided for the section 167 program may also be used for youth, but are not limited to this age group.

§ 669.620 How do the MSFW youth program regulations apply to the MSFW program authorized under WIA section 167?

(a) This subpart applies only to the administration of grants for MSFW youth programs funded under WIA section 127(b)(1)(A)(iii).

(b) The regulations for the MSFW program in this part apply to the administration of the MSFW youth program, except as modified in this subpart.

§ 669.630 What are the requirements for designation as a ''MSFW youth program grantee''?

Any entity may apply for designation as a ''MSFW youth program grantee'' consistent with requirements described in the SGA. The Department gives special consideration to an entity in any service area for which the entity has been designated as a WIA section 167 MSFW program grantee.

§ 669.640 What is the process for applying for designation as a MSFW youth program grantee?

(a) To apply for designation as a MSFW youth program grantee, entities must respond to an SGA by submitting a plan that meets the requirements of WIA section 167(c)(2) and describes a two-year strategy for meeting the needs of eligible MSFW youth in the service area the entity seeks to serve.

(b) The designation process is conducted competitively (subject to § 669.210) through a selection process distinct from the one used to select WIA section 167 MSFW program grantees.

§ 669.650 How are MSFW youth funds allocated to section 167 grantees?

The allocation of funds among entities designated as WIA section 167 MSFW Youth Program grantees is based on the comparative merits of the applications, in accordance with criteria set forth in the SGA. However, the Secretary may include criteria in the SGA that promote a geographical distribution of funds and that encourages both large- and small-scale programs.

§ 669.660 What planning documents and information are required in the application for MSFW youth grants and when must they be filed?

The required planning documents and other required information and the submission dates for filing are described in the SGA.

§ 669.670 Who is eligible to receive services under the section 167 MSFW youth program?

Disadvantaged youth, ages 14 through 21, who are individually eligible or are members of eligible families under the WIA sec. 167 MSFW program may receive these services.

§ 669.680 What activities and services may be provided under the MSFW youth program?

(a) Based on an evaluation and assessment of the needs of MSFW youth participants, grantees may provide activities and services to MSFW youth that include:

(1) Intensive services and training services, as described in §§ 669.400 and 669.410 of this part;

(2) Life skills activities which may include self and interpersonal skills development;

(3) Community service projects;

(4) Small business development technical assistance and training in conjunction with entrepreneurial training;

(5) Supportive services; and

(b) Other activities and services that conform to the use of funds for youth activities described in 20 CFR part 664.

PART 670—THE JOB CORPS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

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Authority: Sec. 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c).

Subpart A—Scope and Purpose

§ 670.100 What is the scope of this part?

The regulations in this part are an outline of the requirements that apply to the Job Corps program. More detailed policies and procedures are contained in a Policy and Requirements Handbook issued by the Secretary. Throughout this part, phrases like ''according to instructions (procedures) issued by the Secretary'' refer to the Policy and Requirements Handbook and other Job Corps directives.

§ 670.110 What is the Job Corps program?

Job Corps is a national program that operates in partnership with States and communities, local Workforce Investment Boards, youth councils, One-Stop Centers and partners, and other youth programs to provide education and training, primarily in a residential setting, for low income young people. The objective of Job Corps is to provide young people with the skills they need to obtain and hold a job, enter the Armed Forces, or enroll in advanced training or further education.

§ 670.120 What definitions apply to this part?

The following definitions apply to this part:

Absent Without Official Leave (AWOL) means an adverse enrollment status to which a student is assigned based on extended, unapproved absence from his/her assigned center or off-center place of duty. Students do not earn Job Corps allowances while in AWOL status.

Applicable local board means a local Workforce Investment Board that:

(1) works with a Job Corps center and provides information on local demand occupations, employment opportunities, and the job skills needed to obtain the opportunities, and

(2) serves communities in which the graduates of the Job Corps seek employment when they leave the program.

Capital improvement means any modification, addition, restoration or other improvement:

(1) Which increases the usefulness, productivity, or serviceable life of an existing site, facility, building, structure, or major item of equipment;

(2) Which is classified for accounting purposes as a ''fixed asset;'' and

(3) The cost of which increases the recorded value of the existing building, site, facility, structure, or major item of equipment and is subject to depreciation.

Center means a facility and an organizational entity, including all of its parts, providing Job Corps training and designated as a Job Corps center.

Center operator means a Federal, State or local agency, or a contractor that runs a center under an agreement or contract with DOL.

Civilian conservation center (CCC) means a center operated on public land under an agreement between DOL and another Federal agency, which provides, in addition to other training and assistance, programs of work-based learning to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

Contract center means a Job Corps center operated under a contract with DOL.

Contracting officer means the Regional Director or other official authorized to enter into contracts or agreements on behalf of DOL.

Enrollee means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, and remains with the program, but has not yet become a graduate. Enrollees are referred to as ''students'' in this part.

Enrollment means the process by which individual formally becomes a student in the Job Corps program.

Graduate means an enrollee who has:

(1) Completed the requirements of a vocational training program, or received a secondary school diploma or its equivalent as a result of participating in the Job Corps program; and

(2) Achieved job readiness and employment skills as a result of participating in the Job Corps program.

Individual with a disability means an individual with a disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

Interagency agreement means a formal agreement between DOL and another Federal agency administering and operating centers. The agreement establishes procedures for the funding, administration, operation, and review of those centers as well as the resolution of any disputes.

Job Corps means the agency of the Department established by section 143 of the Workforce Investment Act of 1998 (WIA) (20 U.S.C. 9201) to perform those functions of the Secretary of Labor set forth in subtitle C of WIA Title I.

Job Corps Director means the chief official of the Job Corps or a person authorized to act for the Job Corps Director.

Low income individual means an individual who meets the definition in WIA section 101(25).

National Office means the national office of Job Corps.

National training contractor means a labor union, union-affiliated organization, business organization, association or a combination of such organizations, which has a contract with the national office to provide vocational training, placement, or other services.

Operational support services means activities or services required to support the operation of Job Corps, including:

(1) Outreach and admissions services;

(2) Contracted vocational training and off-center training;

(3) Placement services;

(4) Continued services for graduates;

(5) Certain health services; and

(6) Miscellaneous logistical and technical support.

Outreach and admissions agency means an organization that performs outreach, and screens and enrolls youth under a contract or other agreement with Job Corps.

Placement means student employment, entry into the Armed Forces, or enrollment in other training or education programs following separation from Job Corps.

Placement agency means an organization acting under a contract or other agreement with Job Corps to provide placement services for graduates and, the extent possible, for former students.

Regional appeal board means the board designated by the Regional Director to consider student appeals of disciplinary discharges.

Regional Director means the chief Job Corps official of a regional office or a person authorized to act for the Regional Director.

Regional Office means a regional office of Job Corps.

Regional Solicitor means the chief official of a regional office of the DOL Office of the Solicitor, or a person authorized to act for the Regional Solicitor.

Separation means the action by which an individual ceases to be a student in the Job Corps program, either voluntarily or involuntarily.

Student means an individual enrolled in the Job Corps.

Unauthorized goods means:

(1) Firearms and ammunition;

(2) Explosives and incendiaries;

(3) Knives with blades longer than 2 inches;

(4) Homemade weapons;

(5) All other weapons and instruments used primarily to inflict personal injury;

(6) Stolen property;

(7) Drugs, including alcohol, marijuana, depressants, stimulants, hallucinogens, tranquilizers, and drug paraphernalia except for drugs and/or paraphernalia that are prescribed for medical reasons; and

(8) Any other goods prohibited by the center operator in a student handbook.

§ 670.130 What is the role of the Job Corps Director?

The Job Corps Director has been delegated the authority to carry out the responsibilities of the Secretary under Subtitle I–C of the Act. Where the term ''Secretary'' is used in this part 670 to refer to establishment or issuance of guidelines and standards directly relating to the operation of the Job Corps program, the Job Corps Director has that responsibility.

Subpart B—Site Selection and Protection and Maintenance of Facilities

§ 670.200 Who decides where Job Corps centers will be located?

(a) The Secretary must approve the location and size of all Job Corps centers.

(b) The Secretary establishes procedures for making decisions

concerning the establishment, relocation, expansion, or closing of contract centers.

§ 670.210 How are center facility improvements and new construction handled?

The Secretary issues procedures for requesting, approving, and initiating capital improvements and new construction on Job Corps centers.

§ 670.220 Is the Secretary responsible for protection and maintenance of center facilities?

(a) Yes. The Secretary establishes procedures for the protection and maintenance of contract center facilities owned or leased by the Department of Labor, that are consistent with Federal Property Management Regulations at 41 CFR Chapter 101.

(b) Federal agencies operating civilian conservation centers (CCC's) on public land are responsible for protection and maintenance of CCC facilities.

(c) The Secretary issues procedures for conducting periodic facility surveys of centers to determine their condition and to identify needs such as correction of safety and health deficiencies, rehabilitation, and/or new construction.

Subpart C—Funding and Selection of Service Providers

§ 670.300 What entities are eligible to receive funds to operate centers and provide training and operational support services?

(a) Entities eligible to receive funds under this subpart to operate centers include:

(1) Federal, State, and local agencies;

(2) Private for-profit and non-profit corporations;

(3) Indian tribes and organizations; and

(4) Area vocational education or residential vocational schools. (WIA sec. 147(a)(1)(A) and (d)).

(b) Entities eligible to receive funds to provide outreach and admissions, placement and other operational support services include:

(1) One-Stop Centers and partners;

(2) Community action agencies;

(3) Business organizations;

(4) Labor organizations;

(5) Private for-profit and non-profit corporations; and

(6) Other agencies, and individuals that have experience and contact with youth. (WIA sec. 145(a)(3)).

§ 670.310 How are entities selected to receive funding?

(a) The Secretary selects eligible entities to operate contract centers and operational support service providers on a competitive basis in accordance with the Federal Property and Administrative Services Act of 1949 unless sections 303 (c) and (d) of that Act apply. In selecting an entity, Job Corps issues requests for proposals (RFP) for the operation of all contract centers and for provision of operational support services according to Federal Acquisition Regulation (48 CFR chapter 1, *et seq.*) and DOL Acquisition Regulation (48 CFR chapter 29). Job Corps develops RFP's for center operators in consultation with the Governor, the center industry council (if established), and the Local Board for the workforce investment area in which the center is located.

(b) The RFP for each contract center and each operational support service contract describes uniform specifications and standards, as well as specifications and requirements that are unique to the operation of the specific center or to the specific required operational support services.

(c) The contracting officer selects and funds Job Corps contract center operators on the basis of an evaluation of the proposals received using criteria established by the Secretary, and set forth in the RFP. The criteria include the following:

(1) The offeror's ability to coordinate the activities carried out through the Job Corps center with activities carried out under the appropriate State and local workforce investment plans;

(2) The degree to which the offeror is proposing vocational training that reflects employment opportunities in the local areas in which most of the students intend to seek employment;

(3) The degree to which the offeror is familiar with the surrounding community, including the applicable One-Stop Centers, and the State and region in which the center is located; and

(4) The offeror's past performance.

(d) The contracting officer selects and funds operational support service contractors on the basis of an evaluation of the proposals received using criteria established by the Secretary and set forth in the RFP.

(e) The Secretary enters into interagency agreements with Federal agencies for the funding, establishment, and operation of CCCs which will include provisions to ensure that the Federal agencies comply with the regulations under this part.

§ 670.320 What are the requirements for award of contracts and payments to Federal agencies?

(a) The requirements of the Federal Property and Administrative Services Act of 1949, as amended; the Federal Grant and Cooperative Agreement Act of 1977; the Federal Acquisition Regulation (48 CFR chapter 1); and the DOL Acquisition Regulation (48 CFR chapter 29) apply to the award of contracts and to payments to Federal agencies.

(b) Job Corps funding of Federal agencies that operate CCCs are made by a transfer of obligational authority from DOL to the respective operating agency.

Subpart D—Recruitment, Eligibility, Screening, Selection and Assignment, and Enrollment

§ 670.400 Who is eligible to participate in the Job Corps program?

To be eligible to participate in the Job Corps, an individual must be:

(a) At least 16 and not more than 24 years of age at the time of enrollment, except

(1) There is no upper age limit for an otherwise eligible individual with a disability; and

(2) Not more than 20% of individuals enrolled nationwide may be individuals who are aged 22 to 24 years old;

(b) A low-income individual; and

(c) An individual who is facing one or more of the following barriers to education and employment:

(1) Is basic skills deficient, as defined in WIA section 101(4); or

(2) Is a school dropout; or

(3) Is homeless, or a runaway, or a foster child; or

(4) Is a parent; or

(5) Requires additional education, vocational training, or intensive counseling and related assistance in order to participate successfully in regular schoolwork or to secure and hold meaningful employment.

(d) Meets the requirements of § 670.420, if applicable.

§ 670.410 Are there additional factors which are considered in selecting an eligible applicant for enrollment?

Yes. In accordance with procedures issued by the Secretary, an eligible applicant may be selected for enrollment, only if:

(a) A determination is made, based on information relating to the background, needs and interests of the applicant, that the applicant's educational and vocational needs can best be met through the Job Corps program;

(b) A determination is made that there is a reasonable expectation the applicant can participate successfully in group situations and activities, and is not likely to engage in actions that would potentially:

(1) Prevent other students from receiving the benefit of the program;

(2) Be incompatible with the maintenance of sound discipline; or

(3) Impede satisfactory relationships between the center to which the student is assigned and surrounding local communities;

(c) The applicant is made aware of the center's rules and what the consequences are for failure to observe the rules, as described by procedures issued by the Secretary;

(d) The applicant passes a background check conducted according to procedures established by the Secretary. The background check must find that the applicant is not on probation, parole, under a suspended sentence or under the supervision of any agency as a result of court action or institutionalization, unless the court or appropriate agency certifies in writing that it will approve of the applicant's release from its supervision and that the applicant's release does not violate applicable laws and regulations. No one will be denied enrollment in Job Corps solely on the basis of contact with the criminal justice system. (WIA secs. 145(b)(1)(C) and 145(b)(2).)

(e) Suitable arrangements are made for the care of any dependent children for the proposed period of enrollment.

§ 670.420 Are there any special requirements for enrollment related to the Military Selective Service Act?

(a) Yes. Each male applicant 18 years of age or older must present evidence that he has complied with section 3 of the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*) if required; and

(b) When a male student turns 18 years of age, he must submit evidence to the center that he has complied with the requirements of the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*).

§ 670.430 What entities conduct outreach and admissions activities for the Job Corps program?

The Regional Director makes arrangements with outreach and admissions agencies to perform Job Corps recruitment, screening and admissions functions according to standards and procedures issued by the Secretary. One-Stop Centers or partners, community action organizations, private for-profit and non-profit businesses, labor organizations, or other entities that have contact with youth over substantial periods of time and are able to offer reliable information about the needs of youth, conduct outreach and admissions activities. The Regional Director awards contracts for provision of outreach and screening services on a competitive basis in accordance with the requirements in § 670.310 of this part.

§ 670.440 What are the responsibilities of outreach and admissions agencies?

(a) Outreach and admissions agencies are responsible for:

(1) Developing outreach and referral sources;

(2) Actively seeking out potential applicants;

(3) Conducting personal interviews with all applicants to identify their needs and eligibility status; and

(4) Identifying youth who are interested and likely Job Corps participants.

(b) Outreach and admissions agencies are responsible for completing all Job Corps application forms and determining whether applicants meet the eligibility and selection criteria for participation in Job Corps as provided in §§ 670.400 and 670.410 of this subpart.

(c) The Secretary may decide that determinations with regard to one or more of the eligibility criteria will be made by the Regional Director.

§ 670.450 How are applicants who meet eligibility and selection criteria assigned to centers?

(a) Each applicant who meets the application and selection requirements of § 670.400 and § 670.410 is assigned to a center based on an assignment plan developed by the Secretary. The assignment plan identifies a target for the maximum percentage of students at each center who come from the State or region nearest the center, and the regions surrounding the center. The assignment plan is based on an analysis of:

(1) The number of eligible individuals in the State and region where the center is located and the regions surrounding where the center is located;

(2) The demand for enrollment in Job Corps in the State and region where the center is located and in surrounding regions; and

(3) The size and enrollment level of the center.

(b) Eligible applicants are assigned to centers closest to their homes, unless it is determined, based on the special needs of applicants, including vocational interests and English literacy needs, the unavailability of openings in the closest center, or parent or guardian concerns, that another center is more appropriate.

(c) A student who is under the age of 18 must not be assigned to a center other than the center closest to home if a parent or guardian objects to the assignment.

§ 670.460 What restrictions are there on the assignment of eligible applicants for nonresidential enrollment in Job Corps?

(a) No more than 20 percent of students enrolled in Job Corps nationwide may be nonresidential students.

(b) In enrolling individuals who are to be nonresidential students, priority is given to those eligible individuals who are single parents with dependent children. (WIA sec 147(b)).

§ 670.470 May a person who is determined to be ineligible or an individual who is denied enrollment appeal that decision?

(a) A person who is determined to be ineligible to participate in Job Corps under § 670.400 or a person who is not selected for enrollment under § 670.410 may appeal the determination to the outreach and admissions agency or to the center, within 60 days of the determination. The appeal will be resolved according to the procedures in §§ 670.990 and 670.991 of this part. If the appeal is denied by the outreach/admissions contractor or the center, the person may appeal the decision in writing to the Regional Director within 60 days the date of the denial. The Regional Director will decide within 60 days whether to reverse or approve the appealed decision. The decision by the Regional Director is the Department's final decision.

(b) If an applicant believes that he or she has been determined ineligible or not selected for enrollment based upon a factor prohibited by WIA sec. 188, the individual may proceed under the applicable DOL nondiscrimination regulations implementing WIA sec. 188.

(c) An applicant who is determined to be ineligible or a person who is denied enrollment must be referred to the appropriate One-Stop Center or other local service provider.

§ 670.480 At what point is an applicant considered to be enrolled in Job Corps?

(a) To become enrolled as a Job Corps student, an applicant selected for enrollment must physically arrive at the assigned Job Corps center on the appointed date. However, applicants selected for enrollment who arrive at their assigned centers by government furnished transportation are considered to be enrolled on their dates of departure by such transportation.

(b) Center operators must document the enrollment of new students according to procedures issued by the Secretary.

§ 670.490 How long can a student be enrolled in Job Corps?

(a) Except as provided in paragraph (b) of this section, a student may remain

enrolled in Job Corps for no more than two years.

(b)(1) An extension of a student's enrollment may be authorized in special cases according to procedures issued by the Secretary; and

(2) A student's enrollment in an advanced career training program may be extended in order to complete the program for a period not to exceed one year.

Subpart E—Program Activities and Center Operations

§ 670.500 What services must Job Corps centers provide?

(a) Job Corps centers must provide:

(1) Academic, vocational, employability and social skills training;

(2) Work-based learning; and

(3) Recreation, counseling and other residential support services.

(b) In addition, centers must provide students with access to the core services described in WIA section 134(d)(2) and the intensive services described in WIA section 134(d)(3).

§ 670.505 What types of training must Job Corps centers provide?

(a) Job Corps centers must provide basic education, vocational and social skills training. The Secretary provides curriculum standards and guidelines.

(b) Each center must provide students with competency-based or individualized training in an occupational area that will best contribute to the students' opportunities for permanent long-term employment.

(1) Specific vocational training programs offered by individual centers must be approved by the Regional Director according to policies issued by the Secretary.

(2) Center industry councils described in § 670.800 of this part, must review appropriate labor market information, identify employment opportunities in local areas where students will look for employment, determine the skills and education necessary for those jobs, and as appropriate, recommend changes in the center's vocational training program to the Secretary.

(c) Each center must implement a system to evaluate and track the progress and achievements of each student at regular intervals.

(d) Each center must develop a training plan that must be available for review and approval by the appropriate Regional Director.

§ 670.510 Are Job Corps center operators responsible for providing all vocational training?

No. In order to facilitate students' entry into the workforce, the Secretary may contract with national business, union, or union-affiliated organizations for vocational training programs at specific centers. Contractors providing such vocational training will be selected in accordance with the requirements § 670.310 of this part.

§ 670.515 What responsibilities does the center operators have in managing work-based learning?

(a) The center operator must emphasize and implement work-based learning programs for students through center program activities, including vocational skills training, and through arrangements with employers. Work-based learning must be under actual working conditions and must be designed to enhance the employability, responsibility, and confidence of the students. Work-based learning usually occurs in tandem with students' vocational training.

(b) The center operator must ensure that students are assigned only to workplaces that meet the safety standards described in § 670.935 of this part.

§ 670.520 Are students permitted to hold jobs other than work-based learning opportunities?

Yes. A center operator may authorize a student to participate in gainful leisure time employment, as long as the employment does not interfere with required scheduled activities.

§ 670.525 What residential support services must Job Corps center operators provide?

Job Corps center operators must provide the following services according to procedures issued by the Secretary:

(a) A quality living and learning environment that supports the overall training program and includes a safe, secure, clean and attractive physical and social environment, seven days a week, 24 hours a day;

(b) An ongoing, structured counseling program for students;

(c) Food service, which includes provision of nutritious meals for students;

(d) Medical services, through provision or coordination of a wellness program which includes access to basic medical, dental and mental health services, as described in the Policy and Requirements Handbook, for all students from the date of enrollment until separation from the Job Corps program;

(e) A recreation/avocational program;

(f) A student leadership program and an elected student government; and

(g) A student welfare association for the benefit of all students that is funded by non-appropriated funds which come from sources such as snack bars, vending machines, disciplinary fines, and donations, and is run by an elected student government, with the help of a staff advisor.

§ 670.530 Are Job Corps centers required to maintain a student accountability system?

Yes. Each Job Corps center must establish and operate an effective system to account for and document the whereabouts, participation, and status of students during their Job Corps enrollment. The system must enable center staff to detect and respond to instances of unauthorized or unexplained student absence. Each center must operate its student accountability system according to requirements and procedures issued by the Secretary.

§ 670.535 Are Job Corps centers required to establish behavior management systems?

(a) Yes. Each Job Corps center must establish and maintain its own student incentives system to encourage and reward students' accomplishments.

(b) The Job Corps center must establish and maintain a behavior management system, according to procedures established by the Secretary. The behavior management system must include a zero tolerance policy for violence and drugs policy as described in § 670.540.

§ 670.540 What is Job Corps' zero tolerance policy?

(a) Each Job Corps center must have a zero tolerance policy for:

(1) An act of violence as defined in procedures issued by the Secretary;

(2) Use, sale, or possession of a controlled substance, as defined at 21 U.S.C. 802;

(3) Abuse of alcohol;

(4) Possession of unauthorized goods; or

(5) Other illegal or disruptive activity.

(b) As part of this policy, all students must be tested for drugs as a condition of enrollment. (WIA sec. 145(a)(1) and 152(b)(2).)

(c) According to procedures issued by the Secretary, the policy must specify the offenses that result in the automatic separation of a student from the Job Corps. The center director is responsible for determining when there is a violation of a specified offense.

§ 670.545 How does Job Corps ensure that students receive due process in disciplinary actions?

The center operator must ensure that all students receive due process in

disciplinary proceedings according to procedures developed by the Secretary. These procedures must include, at a minimum, center fact-finding and behavior review boards, the penalty of separation from Job Corps might be imposed, and procedures for students to appeal a center's decision to discharge them involuntarily from Job Corps to a regional appeal board.

§ 670.550 What responsibilities do Job Corps centers have in assisting students with child care needs?

(a) Job Corps centers are responsible for coordinating with outreach and admissions agencies to assist students with making arrangements for child care for their dependent children.

(b) Job Corps centers may operate on center child development programs with the approval of the Secretary.

§ 670.555 What are the center's responsibilities in ensuring that students' religious rights are respected?

(a) Centers must ensure that a student has the right to worship or not worship as he or she chooses.

(b) Religious services may not be held on-center unless the center is so isolated that transportation to and from community religious facilities is impractical.

(c) If religious services are held on-center, no Federal funds may be paid to those who conduct services. Services may not be confined to one religious denomination, and centers may not require students to attend services.

§ 670.560 Is Job Corps authorized to conduct pilot and demonstration projects?

(a) Yes. The Secretary may undertake experimental, research and demonstration projects related to the Job Corps program according to WIA section 156.

(b) The Secretary establishes policies and procedures for conducting such projects.

(c) All studies and evaluations produced or developed with Federal funds become the property of the United States.

Subpart F—Student Support

§ 670.600 Is government-paid transportation provided to Job Corps students?

Yes. Job Corps provides for the transportation of students between their homes and centers as described in policies and procedures issued by the Secretary.

§ 670.610 When are students authorized to take leaves of absence from their Job Corps centers?

Job Corps students are eligible for annual leaves, emergency leaves and other types of leaves of absence from their assigned centers according to criteria and requirements that are issued by the Secretary. Center operators and other service providers must account for student leave according to procedures issued by the Secretary.

§ 670.620 Are Job Corps students eligible to receive cash allowances and performance bonuses?

(a) Yes. According to criteria and rates that are established by the Secretary, Job Corps students receive cash living allowances, performance bonuses, and allotments for care of dependents, and graduates receive post-separation readjustment allowances and placement bonuses. The Secretary may provide former students with post-separation allowances.

(b) In the event of a student's death, any amount due under this section are paid according to provisions of 5 U.S.C. 5582 relating to issues such as designation of beneficiary; order of precedence and related matters.

§ 670.630 Are student allowances subject to Federal Payroll Taxes?

Yes. Job Corps student allowances are subject to Federal payroll tax withholding and social security taxes. Job Corps students are considered to be Federal employees for purposes of Federal payroll taxes. (WIA sec. 157(a)(2).)

§ 670.640 Are students provided with clothing?

Yes. Job Corps students are provided cash clothing allowances and/or articles of clothing, including safety clothing, when needed for their participation in Job Corps and their successful entry into the work force. Center operators and other service providers must issue clothing and clothing assistance to students according to rates, criteria, and procedures that are issued by the Secretary.

Subpart G—Placement and Continued Services

§ 670.700 What are Job Corps centers' responsibilities in preparing students for placement services?

Job Corps centers must test and counsel students to assess their competencies and capabilities and determine their readiness for placement.

§ 670.710 What placement services will be provided for Job Corps students?

(a) Job Corps placement services focus on placing program graduates in:

(1) Full-time jobs that are related to their vocational training and that pay wages that allow for self-sufficiency;

(2) Higher education; or

(3) Advanced training programs, including apprenticeship programs.

(b) Placement service levels for students may vary, depending on whether the student is a graduate or a former student.

(c) Procedures relating to placement service levels are issued by the Secretary.

§ 670.720 Who will provide placement services?

The One-Stop system must be used to the fullest extent possible in placing graduates and former students in jobs. Job Corps placement agencies provide placement services under a contract or other agreement with the Department of Labor.

§ 670.730 What are the responsibilities of placement agencies?

(a) Placement agencies are responsible for:

(1) Contacting graduates;

(2) Assisting them in improving skills in resume preparation, interviewing techniques and job search strategies;

(3) Identifying job leads or educational and training opportunities through coordination with local Workforce Investment Boards, One-Stop operators and partners, employers, unions and industry organizations; and

(4) Placing graduates in jobs, apprenticeship, the Armed Forces, or higher education or training, or referring former students for additional services in their local communities as appropriate. Placement services may be provided for former students according to procedures issued by the Secretary.

(b) Placement agencies must record and submit all Job Corps placement information according to procedures established by the Secretary.

§ 670.740 Must continued services be provided for graduates?

Yes. According to procedures issued by the Secretary, continued services, including transition support and workplace counseling, must be provided to program graduates for 12 months after graduation.

§ 670.750 Who may provide continued services for graduates?

Placement agencies, centers or other agencies, including One-Stop partners, may provide post-program services under a contract or other agreement

with the Regional Director. In selecting a provider for continued services, priority is given to One-Stop partners. (WIA sec. 148(d)).

§ 670.760 How will Job Corps coordinate with other agencies?

(a) The Secretary issues guidelines for the National Office, Regional Offices, Job Corps centers and operational support providers to use in developing and maintaining cooperative relationships with other agencies and institutions, including law enforcement, educational institutions, communities, and other employment and training programs and agencies.

(b) The Secretary develops polices and requirements to ensure linkages with the One-Stop delivery system to the greatest extent practicable, as well as with other Federal, State, and local programs, and youth programs funded under this title. These linkages enhance services to youth who face multiple barriers to employment and must include, where appropriate:

(1) Referrals of applicants and students;

(2) Participant assessment;

(3) Pre-employment and work maturity skills training;

(4) Work-based learning;

(5) Job search, occupational, and basic skills training; and

(6) Provision of continued services for graduates.

Subpart H—Community Connections

§ 670.800 How do Job Corps centers and service providers become involved in their local communities?

(a) Job Corps representatives serve on Youth Councils operating under applicable Local Boards wherever geographically feasible.

(b) Each Job Corps center must have a Business and Community Liaison designated by the director of the center to establish relationships with local and distant employers, applicable One-Stop centers and local boards, and members of the community according to procedures established by the Secretary. (WIA sec. 153(a).)

(c) Each Job Corps center must implement an active community relations program.

(d) Each Job Corps center must establish an industry advisory council, according to procedures established by the Secretary. The industry advisory council must include:

(1) Distant and local employers;

(2) Representatives of labor organizations (where present) and employees; and

(3) Job Corps students and graduates.

(e) A majority of the council members must be local and distant business owners, chief executives or chief operating officers of nongovernmental employers or other private sector employers, who have substantial management, hiring or policy responsibility and who represent businesses with employment opportunities in the local area and the areas to which students will return.

(f) The council must work with Local Boards and must review labor market information to provide recommendations to the Secretary regarding the center's vocational training offerings, including identification of emerging occupations suitable for training. (WIA sec.154(b)(1).)

(g) Job Corps is identified as a required One-Stop partner. Wherever practicable, Job Corps centers and operational support contractors must establish cooperative relationships and partnerships with One-Stop centers and other One-Stop partners, Local Boards, and other programs for youth.

Subpart I—Administrative and Management Provisions

§ 670.900 Are damages caused by students eligible for reimbursement under the Tort Claims Act?

Yes. Students are considered Federal employees for purposes of the Tort Claims Act (28 U.S.C. 2671 (*et seq.*). If a student is alleged to be involved in the damage, loss, or destruction of the property of others, or in causing personal injury to or the death of another individual(s), the injured person(s), or their agent may file a claim with the Center Director. Director must investigate all of the facts, including accident and medical reports, and interview witnesses, and submit the claim for a decision to the Regional Solicitor's Office. All tort claims for $25,000 or more must be sent to the Associate Solicitor for Employee Benefits, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

§ 670.905 Are damages that occur to private parties at Job Corps Centers eligible for reimbursement under the Tort Claims Act?

(a) Whenever there is loss or damage to persons or property, which is believed to have resulted from operation of a Job Corps center and to be a proper charge against the Federal Government, the owner(s) of the property, the injured person(s), or their agent may submit a claim for the damage to the Regional Solicitor. Claims must be filed no later than two years from the date of loss or damage. The Regional Solicitor will determine if the claim is valid under the Tort Claims Act. If the Regional Solicitor determines a claim is not valid under the Tort Claims Act, the Regional Solicitor must consider the facts and may still settle the claim, in an amount not to exceed $1,500.

(b) The Job Corps may pay students for valid claims under the Tort Claims Act for lost, damaged, or stolen property, up to a maximum amount set by the Secretary, when the loss is not due to the negligence of the student. Students must file claims no later than six months from the date of loss. Students are compensated for losses including those that result from a natural disaster or those that occur when the student's property is in the protective custody of the Job Corps, such as when the student is AWOL. Claims must be filed with Job Corps regional offices. The regional office will promptly notify the student and the center of its determination.

§ 670.910 Are students entitled to Federal Employees Compensation Benefits?

(a) Job Corps students are considered Federal employees for purposes of the Federal Employees Compensation Act (FECA). (WIA sec. 157(a)(3).)

(b) Job Corps students may be entitled to Federal Employees Compensation Benefits as specified in (WIA sec. 157.)

(c) Job Corps students must meet the same eligibility tests for FECA payments that apply to all other Federal employees. One of those tests is that the injury must occur ''in the performance of duty.'' This test is described in § 670.915.

§ 670.915 When are residential students considered to be in the performance of duty?

Residential students will be considered to be in the ''performance of duty'' at all times while:

(a) They are on center under the supervision and control of Job Corps officials;

(b) They are engaged in any authorized Job Corps activity;

(c) They are in authorized travel status; or

(d) They are engaged in any authorized offsite activity.

§ 670.920 When are non-resident students considered to be in the performance of duty?

Non-resident students are considered ''in performance of duty'' as Federal employees when they are engaged in any authorized Job Corps activity, from the time they arrive at any scheduled center activity until they leave the activity. The standard rules governing

coverage of Federal employees during travel to and from work apply. These rules are described in guidance issued by the Secretary.

§ 670.925 When are students considered to be not in the performance of duty?

Students are considered to be not in the performance of duty when:

(a) They are AWOL;

(b) They are at home, whether on pass or on leave;

(c) They are engaged in an unauthorized offsite activity; or

(d) They are injured or ill due to their own:

(1) Willful misconduct;

(2) Intent to cause injury or death to oneself or another; or

(3) By intoxication or drugs.

§ 670.930 How are FECA benefits computed?

(a) FECA benefits for disability or death are computed using the entrance salary for a grade GS–2 as the student's monthly pay.

(b) The provisions of 5 U.S.C. 8113 (a) and (b), relating to compensation for work injuries apply to students. Compensation for disability will not begin to accrue until the day following the date on which the injured student completes his or her Job Corps separation.

(c) Whenever a student is injured, develops an occupationally related illness, or dies while in the performance of duty, the procedures in the DOL Employment Standards Administration regulations, at 20 CFR ch. I, must be followed. A thorough investigation of the circumstances and a medical evaluation must be completed and required forms must be timely filed by the center operator with the DOL Office of Workers' Compensation Programs.

§ 670.935 How will students be protected from unsafe or unhealthy situations?

(a) The Secretary establishes procedures to ensure that students are not required or permitted to work, be trained, reside in, or receive services in buildings or surroundings or under conditions that are unsanitary or hazardous. Whenever students are employed or in training for jobs, they must be assigned only to jobs or training which observe applicable Federal, State and local health and safety standards.

(b) The Secretary develops procedures to ensure compliance with applicable DOL Occupational Safety and Health Administration regulations.

§ 670.940 What are the requirements relating to criminal law enforcement jurisdiction on center property?

(a) All Job Corps property which would otherwise be under exclusive Federal legislative jurisdiction is considered under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement. Concurrent jurisdiction extends to all portions of the property, including housing and recreational facilities, in addition to the portions of the property used for education and training activities.

(b) Centers located on property under concurrent Federal-State jurisdiction must establish agreements with Federal, State and local law enforcement agencies to enforce criminal laws.

(c) The Secretary develops procedures to ensure that any searches of a student's person, personal area or belongings for unauthorized goods follow applicable right-to-privacy laws.

§ 670.945 Are Job Corps operators and service providers authorized to pay State or local taxes on gross receipts?

(a) A private for-profit or a nonprofit Job Corps service provider is not liable, directly or indirectly, to any State or subdivision for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes in connection with any payments made to or by such service provider for operating a center or other Job Corps program or activity. The service provider is not liable to any State or subdivision to collect or pay any sales, excise, use, or similar tax imposed upon the sale to or use by such deliverer of any property, service, or other item in connection with the operation of a center or other Job Corps program or activity. (WIA sec. 158(d).)

(b) If a State or local authority compels a center operator or other service provider to pay such taxes, the center operator or service provider may pay the taxes with Federal funds, but must document and report the State or local requirement according to procedures issued by the Secretary.

§ 670.950 What are the financial management responsibilities of Job Corps center operators and other service providers?

(a) Center operators and other service providers must manage Job Corps funds using financial management information systems that meet the specifications and requirements of the Secretary.

(b) These financial management information systems must:

(1) Provide accurate, complete, and current disclosures of the costs of their Job Corps activities;

(2) Ensure that expenditures of funds are necessary, reasonable, allocable and allowable in accordance with applicable cost principles;

(3) Use account structures specified by the Secretary;

(4) Ensure the ability to comply with cost reporting requirements and procedures issued by the Secretary; and

(5) Maintain sufficient cost data for effective planning, monitoring, and evaluation of program activities and for determining the allowability of reported costs.

§ 670.955 Are Center Operators and Service Providers Subject to Federal Audits?

(a) Yes. Center operators and service providers are subject to Federal audits.

(b) The Secretary arranges for the survey, audit, or evaluation of each Job Corps center and service provider at least once every three years, by Federal auditors or independent public accountants. The Secretary may arrange for more frequent audits. (WIA sec. 159(b)(2).)

(c) Center operators and other service providers are responsible for giving full cooperation and access to books, documents, papers and records to duly appointed Federal auditors and evaluators. (WIA sec. 159(b)(1).)

§ 670.960 What are the procedures for management of student records?

The Secretary issues guidelines for a system of maintaining records for each student during enrollment and for disposition of such records after separation.

§ 670.965 What procedures apply to disclosure of information about Job Corps students and program activities?

(a) The Secretary develops procedures to respond to requests for information or records or other necessary disclosures pertaining to students.

(b) DOL disclosure of Job Corps information must be handled according to the Freedom of Information Act and according to DOL regulations at 29 CFR part 70.

(c) Job Corps contractors are not ''agencies'' for Freedom of Information Act purposes. Therefore, their records are not subject to disclosure under the Freedom of Information Act or 29 CFR part 70.

(d) The regulations at 29 CFR Part 70a apply to a system of records covered by the Privacy Act of 1974 maintained by DOL or to a similar system maintained by a contractor, such as a screening agency, contract center operator, or placement agency on behalf of the Job Corps.

§ 670.970 What are the reporting requirements for center operators and operational support service providers?

The Secretary establishes procedures to ensure the timely and complete

reporting of necessary financial and program information to maintain accountability. Center operators and operational support service providers are responsible for the accuracy and integrity of all reports and data they provide.

§ 670.975 How will performance of the Job Corps program be assessed?

The performance of the Job Corps program as a whole, and the performance of individual program components, is assessed on an ongoing basis, in accordance with these regulations and procedures and standards, including a national performance measurement system, issued by the Secretary. Annual performance assessments are done for each center operator and other service providers, including screening and admissions and placement agencies.

§ 670.980 What are the indicators of performance for Job Corps?

(a) At a minimum, the performance assessment system established under § 670.975 of this subpart will include expected levels of performance established for each of the indicators of performance contained in WIA section 159(c). These are:

(1) The number of graduates and rate of graduation, analyzed by the type of vocational training received and the training provider;

(2) The job placement rate of graduates into unsubsidized employment, analyzed by the vocational training received, whether or not the job placement is related to the training received, the vocational training provider, and whether the placement is made by a local or national service provider;

(3) The average placement wage of graduates in training-related and non-training related unsubsidized jobs;

(4) The average wage of graduates on the first day of employment and at 6 and 12 months following placement, analyzed by the type of vocational training received;

(5) The number of and retention rate of graduates in unsubsidized employment after 6 and 12 months ;

(6) The number of graduates who entered unsubsidized employment for 32 hours per week or more, for 20 to 32 hours per week, and for less than 20 hours per week.

(7) The number of graduates placed in higher education or advanced training; and

(8) The number of graduates who attained job readiness and employment skills.

(b) The Secretary issues the expected levels of performance for each indicator. To the extent practicable, the levels of performance will be continuous and consistent from year to year.

§ 670.985 What happens if a center operator, screening and admissions contractor or other service provider fails to meet the expected levels of performance?

(a) The Secretary takes appropriate action to address performance issues through a specific performance plan.

(b)The plan may include the following actions:

(1) Providing technical assistance to a Job Corps center operator or support service provider, including a screening and admissions contractor;

(2) Changing the management staff of a center;

(3) Changing the vocational training offered at a center;

(4) Contracting out or recompeting the contract for a center or operational support service provider;

(5) Reducing the capacity of a Job Corps center;

(6) Relocating a Job Corps center; or

(7) Closing a Job Corps center. (WIA sec. 159(f).)

§ 670.990 What procedures are available to resolve complaints and disputes?

(a) Each Job Corps center operator and service provider must establish and maintain a grievance procedure for filing complaints and resolving disputes from applicants, students and/or other interested parties about its programs and activities. A hearing on each complaint or dispute must be conducted within 30 days of the filing of the complaint or dispute. A decision on the complaint must be made by the center operator or service provider, as appropriate, within 60 days after the filing of the complaint, and a copy of the decision must be immediately served, by first-class mail, on the complainant and any other party to the complaint. Except for complaints under § 670.470 of this part or complaints alleging fraud or other criminal activity, complaints may be filed within one year of the occurrence that led to the complaint.

(b) The procedure established under paragraph (a) of this section must include procedures to process complaints alleging violations of WIA section 188, consistent with DOL nondiscrimination regulations implementing WIA section 188 and § 670.995 of this subpart.

§ 670.991 How does Job Corps ensure that complaints or disputes are resolved in a timely fashion?

(a) If a complaint is not resolved by the center operator or service provider in the time frames described in § 670.990 of this subpart, the person making the complaint may request that the Regional Director determine whether reasonable cause exists to believe that the Act or regulations for this part of the Act have been violated. The request must be filed with the Regional Director within 60 days from the date that the center operator or service provider should have issued the decision.

(b) Following the receipt of a request for review under paragraph (a) of this section, the Regional Director must determine within 60 days whether there has been a violation of the Act or these regulations. If the Regional Director determines that there has been a violation of the Act or Regulations, (s)he may direct the operator or service provider to remedy the violation or direct the service provider to issue a decision to resolve the dispute according to the service provider's grievance procedures. If the service provider does not comply with the Regional Director's decision within 30 days, the Regional Director may impose a sanction on the center operator or service provider for violating the Act or regulations, and/or for failing to issue a decision. Decisions imposing sanctions upon a center operator or service provider may be appealed to the DOL Office of Administrative Law Judges under 20 CFR 667.800 or 667.840.

§ 670.992 How does Job Corps ensure that centers or other service providers comply with the Act and regulations?

(a) If DOL receives a complaint or has reason to believe that a center or other service provider is failing to comply with the requirements of the Act or regulations, the Regional Director must investigate the allegation and determine within 90 days after receiving the complaint or otherwise learning of the alleged violation, whether such allegation or complaint is true.

(b) As a result of such a determination, the Regional Director may:

(1) Direct the center operator or service provider to handle a complaint through the grievance procedures established under § 670.990 of this subpart; or

(2) Investigate and determine whether the center operator or service provider is in compliance with the Act and regulations. If the Regional Director determines that the center or service provider is not in compliance with the Act or regulations, the Regional Director may take action to resolve the complaint under § 670.991(b) of this subpart, or will report the incident to the DOL

Office of the Inspector General, as described in 20 CFR 667.630.

§ 670.993 How does Job Corps ensure that contract disputes will be resolved?

A dispute between DOL and a Job Corps contractor will be handled according to the Contract Disputes Act and applicable regulations.

§ 670.994 How does Job Corps resolve disputes between DOL and other Federal Agencies?

Disputes between DOL and a Federal Agency operating a center will he handled according to the interagency agreement with the agency which is operating the center.

§ 670.995 What DOL equal opportunity and nondiscrimination regulations apply to Job Corps?

Nondiscrimination requirements, procedures, complaint processing, and compliance reviews are governed by, as applicable, provisions of the following Department of Labor regulations:

(a) Regulations implementing WIA section 188 for programs receiving Federal financial assistance under WIA.

(b) 29 CFR part 33 for programs conducted by the Department of Labor; and

(c) 41 CFR chapter 60 for entities that have a Federal government contract.

PART 671—NATIONAL EMERGENCY GRANTS FOR DISLOCATED WORKERS

Sec.

671.100 What is the purpose of national emergency grants under WIA section 173?
671.105 What funds are available for national emergency grants?
671.110 What are major economic dislocations or other events which may qualify for a national emergency grant?
671.120 Who is eligible to apply for national emergency grants?
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671.140 What are the allowable activities and what dislocated workers may be served under national emergency grants?
671.150 How do statutory and workflex waivers apply to national emergency grants?
671.160 What rapid response activities are required before a national emergency grant application is submitted ?
671.170 What are the program and administrative requirements that apply to national emergency grants?

Authority: Sec. 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c).

§ 671.100 What is the purpose of national emergency grants under WIA section 173?

The purpose of national emergency grants is to provide supplemental dislocated worker funds to States, Local Boards and other eligible entities in order to respond to the needs of dislocated workers and communities affected by major economic dislocations and other worker dislocation events which cannot be met with formula allotments.

§ 671.105 What funds are available for national emergency grants?

The Secretary uses funds reserved under WIA section 132(a)(2)(A) to provide financial assistance to eligible applicant for grants under WIA section 173.

§ 671.110 What are major economic dislocations or other events which may qualify for a national emergency grant?

These include:

(a) Plant closures;

(b) Mass layoffs affecting 50 or more workers at a single site of employment;

(c) Closures and realignments of military installations;

(d) Multiple layoffs in a single local community that have significantly increased the total number of unemployed individuals in a community;

(e) Emergencies or natural disasters, as defined in paragraphs (1) and (2) respectively, of section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(1) and (2)) which have been declared eligible for public assistance by the Federal Emergency Management Agency (FEMA); and

(f) Other events, as determined by the Secretary.

§ 671.120 Who is eligible to apply for national emergency grants?

(a) *For projects within a State.* A State, a Local Board or another entity determined to be appropriate by the Governor of the State in which the project will be located may apply for a national emergency grant. Also, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, or Native Hawaiian organizations which are recipients of funds under section 166 of the Act (Indian and Native American Programs) may apply for a national emergency grant.

(b) *For inter-State projects.* Consortia of States and/or Local Boards may apply. Other private entities which can demonstrate, in the application for assistance, that they possess unique capabilities to effectively respond to the circumstances of the major economic dislocation(s) covered in the application may apply.

(c) *Other entities.* The Secretary may consider applications from other entities, to ensure that appropriate assistance is provided in response to major economic dislocations.

§ 671.125 What are the requirements for submitting applications for national emergency grants?

The Department publishes instructions for submitting applications for National Emergency Grants in the **Federal Register**. The instructions specify application procedures, selection criteria and the approval process.

§ 671.130 When should applications for national emergency grants be submitted to the Department?

(a) Applications for national emergency grants to respond to mass layoffs and plant closures may be submitted to the Department as soon as:

(1) The State receives a notification of a mass layoff or a closure as a result of a WARN notice, a general announcement or some other means determined by the Governor to be sufficient to respond;

(2) Rapid response assistance has been initiated; and

(3) A determination has been made, in collaboration with the applicable Local Board(s) and chief elected official(s), that State and local formula dislocated worker funds are inadequate to provide the level of services needed by the workers being laid off.

(b) An eligible entity may apply for a national emergency grant at any time during the year.

(c) Applications for national emergency grants to respond to a declared emergency or natural disaster as described in § 671.110(e) of this subpart, cannot be considered until FEMA has declared that the affected area is eligible for disaster-related public assistance.

§ 671.140 What are the allowable activities and what dislocated workers may be served under national emergency grants?

(a) National emergency grants may provide adjustment assistance for eligible dislocated workers, described at WIA section 173(c)(2) or (d)(2).

(b) Adjustment assistance includes the core, intensive, and training services authorized at WIA sections 134(d) and 173. The scope of services to be provided in a particular project are negotiated between the Department and the grantee, taking into account the needs of the target population covered by the grant. The scope of services may

be changed through grant modifications, if necessary.

(c) National emergency grants may provide for supportive services to help workers who require such assistance to participate in activities provided for in the grant. Needs-related payments, in support of other employment and training assistance, may be available for the purpose of enabling dislocated workers who are eligible for such payments to participate in programs of training services. Generally, the terms of a grant must be consistent with Local Board policies regarding such financial assistance with formula funds (including the payment levels and duration of payments). However, the terms of the grant agreement may diverge from established Local Board policies, for example:

(1) If unemployed dislocated workers served by the project are not able to meet the 13 or 8 weeks enrollment in training requirement at WIA section 134(e)(3)(B) because of the lack of formula or emergency grant funds in the State or local area at the time of dislocation, such individuals may be eligible for needs-related payments if they are enrolled in training by the end of the 6th week following the date of the emergency grant award; and

(2) Trade-impacted workers who are not eligible for trade readjustment assistance under NAFTA–TAA may be eligible for needs-related payments under a national emergency grant if the worker is enrolled in training by the end of the 16th week following layoff.

(d) A national emergency grant to respond to a declared emergency or natural disaster, as defined at § 671.110(e) of this subpart, may provide short-term disaster relief employment for:

(1) Individuals who are temporarily or permanently laid off as a consequence of the disaster;

(2) Dislocated workers; and

(3) Long-term unemployed individuals.

(e) Temporary employment assistance is authorized on disaster projects that provide food, clothing, shelter and other humanitarian assistance for disaster victims; and on projects that perform demolition, cleaning, repair, renovation and reconstruction of damaged and destroyed structures, facilities and lands located within the disaster area. For such temporary jobs, each eligible worker is limited to no more than six months of employment for each single disaster. The amounts, duration and other limitations on wages will be negotiated for each grant.

(f) Additional requirements that apply to national emergency grants, including natural disaster grants, are contained in the application instructions.

§ 671.150 How do statutory and workflex waivers apply to national emergency grants?

(a) Application of existing general statutory or regulatory waivers and workflex waivers to National Emergency Grants may be requested by State and Local Board grantees, and approved by the Department for a National Emergency Grant award. The application for grant funds must describe any statutory waivers which the applicant wishes to apply to the project that the State and Local Board, as applicable, have been granted under its waiver plan, or that the State has approved for implementation in the applicable local area under workflex waivers. The Department considers such requests as part of the overall application review and decision process.

(b) If, during the operation of the project, the grantee wishes to apply a waiver not identified in the application, the grantee must request a modification which includes the provision to be waived, the operational barrier to be removed and the effect upon the outcome of the project.

§ 671.160 What rapid response activities are required before a national emergency grant application is submitted?

(a) Rapid response is a required Statewide activity under WIA section 134(a)(2)(A), to be carried out by the State or its designee in collaboration with the Local Board(s) and chief elected official(s). Pursuant to 20 CFR 665.310, rapid response encompasses, among other activities, an assessment of the general needs of the affected workers and the resources available to them.

(b) In accordance with national emergency grant application guidelines published by the Department, each applicant must demonstrate that:

(1) The rapid response activities described in 20 CFR 665.310 have been initiated and carried out, or are in the process of being carried out;

(2) State and local funds, including those made available under section 132(b)(2)(B) of the Act, have been used to initiate appropriate services to the eligible workers;

(3) There is a need for additional funds to effectively respond to the assistance needs of the workers and, in the case of declared emergencies and natural disasters, the community; and

(4) The application has been developed by or in conjunction with the Local Board(s) and chief elected official(s) of the local area(s) in which the proposed project is to operate.

§ 671.170 What are the program and administrative requirements that apply to national emergency grants?

(a) In general, the program requirements and administrative standards set forth at 20 CFR parts 663 and 667 will apply.

(b) Exceptions include:

(1) Funds provided in response to a natural disaster may be used for temporary job creation in areas declared eligible for public assistance by FEMA, subject to the limitations of WIA section 173(d), this subpart and the application guidelines issued by the Department;

(2) National emergency grant funds may be used to pay an appropriate level of administrative costs based on the design and complexity of the project. Administration costs are negotiated between the applicant and the Department as part of the application review and grant award and modification processes;

(3) The period of availability for expenditure of funds under a national emergency grant is specified in the grant agreement.

(4) The Secretary may establish supplemental reporting, monitoring and oversight requirements for national emergency grants. The requirements will be identified in the grant application instructions or the grant document.

(5) The Secretary may negotiate and fund projects under terms other than those specified in this subpart where it can be clearly demonstrated that such adjustments will achieve a greater positive benefit for the workers and/or communities being assisted.

PART 652—ESTABLISHMENT AND FUNCTIONING OF STATE EMPLOYMENT SERVICES

1. The authority citation for part 652 continues to read as follows:

Authority: 29 U.S.C. 49k.

2. Section 652.1 is amended by revising paragraph (a), and in paragraph (b), by adding the definition of *State Workforce Investment Board (State Board)* and the definition of *WIA*, by revising the definition of *State agency*, and by removing the definition of *Director*, to read as follows:

§ 652.1 Introduction and definitions.

(a) These regulations implement the provisions of the Wagner-Peyser Act, known hereafter as the Act, as amended by the Workforce Investment Act of 1998 (WIA). Congress intended that the States exercise broad authority in implementing provisions of the Act.

(b) * * *

State Agency means the State governmental unit designated under section 4 of the Act to cooperate with the Secretary in the operation of the public employment service system.

State Workforce Investment Board (State Board) means the entity within a State appointed by the Governor under section 111 of the Workforce Investment Act.

WIA means the Workforce Investment Act of 1998 (29 U.S.C. 2801 *et seq.*).

3. Section 652.3 is amended by revising paragraph (d) to read as follows:

§ 652.3 Basic labor exchange system.

* * * * *

(d) To participate in a system for clearing labor between the States, including the use of standardized classification systems issued by the Secretary, under section 15 of the Act; and.

* * * * *

4. Section 652.5 is revised to read as follows:

§ 652.5 Services authorized.

The sums allotted to each State pursuant to section 6 of the Act shall be expended consistent with an approved plan under 20 CFR 660.100–660.104 and §§ 652.222–214 of this part. At a minimum, each State shall provide the basic labor exchange elements at § 652.3 of this part.

§§ 652.6 and 652.7 [Removed and reserved]

5. Sections 652.6 and 652.7 are removed and reserved.

§ 652.8 [Amended]

6. Section 652.8 is amended in paragraph (j)(1) by removing the phrase ''29 CFR part 31.'' and adding ''the applicable DOL nondiscrimination regulations.'' and in paragraph (j)(5) by removing the phrase ''the provisions of 29 CFR parts 31 and 32.'' and adding ''the applicable DOL nondiscrimination regulations.''

7. Subpart C is added to read as follows:

Subpart C—Wagner-Peyser Act Services in a One-Stop Delivery System Environment

Sec.

652.200 What is the purpose of this subpart?
652.201 What is the role of the State Agency in the One-Stop delivery system?
652.202 May local Employment Service Offices exist outside the One-Stop delivery system?
652.203 Who is responsible for funds authorized under the Act in the workforce investment system?
652.204 Must funds authorized under section 7(b) of the Act (the Governor's reserve) flow through the One-Stop delivery system?
652.205 May funds authorized under the Act be used to supplement funding for labor exchange programs authorized under separate legislation?
652.206 May a State use funds authorized under the Act to provide ''core services'' and ''intensive services'' as defined in WIA?
652.207 How does a State meet the requirement for universal access to services provided under the Act?
652.208 How are core services and intensive services related to the methods of service delivery described in § 652.207(b)(2)?
652.209 What are the requirements under the Act for providing reemployment services to referred UI claimants?
652.210 What are the Act's requirements for administration of the work test and assistance to UI claimants?
652.211 What are State planning requirements under the Act?
652.212 When should a State submit modifications to the five-year plan?
652.213 What information must a State include when the plan is modified?
652.214 How often may a State submit modifications to the plan?
652.215 Do any provisions in WIA change the requirement that publicly funded merit-staff employees must deliver services provided under the Act?
652.216 May the One-Stop operator provide guidance to a merit-staffed employee under the Act?

Subpart C—Wagner-Peyser Act in a One-Stop Delivery System Environment

§ 652.200 What is the purpose of this subpart?

(a) This subpart provides guidance to States to implement the services provided under the Act, as amended by WIA, in a One-Stop delivery system environment.

(b) Except as otherwise provided, the definitions contained in this part 652 and section 2 of the Act apply to this subpart.

§ 652.201 What is the role of the State Agency in the One-Stop delivery system?

(a) The role of the State Agency in the One-Stop delivery system is to ensure the delivery of services authorized under section 7(a) of the Act. The State Agency is a required One-Stop partner in each local One-Stop delivery system and is subject to the provisions relating to such partners that are described at 20 CFR part 662.

(b) Consistent with those provisions, the State agency must:

(1) Participate in the One-Stop delivery system in accordance with section 7(e) of the Act;

(2) Be represented on the Workforce Investment Boards that oversee the local and State One-Stop delivery system and be a party to the Memorandum of Understanding described at 20 CFR 662.300 addressing operational issues of the One-Stop delivery system; and

(3) Provide these services as part of the One-Stop delivery system.

§ 652.202 May local Employment Service Offices exist outside the One-Stop delivery system?

(a) No.

(b) However, local Employment Service Offices may operate as affiliated sites, or through electronically or technologically linked access points as part of the One-Stop delivery system, provided the following conditions are met:

(1) All labor exchange services are delivered as a part of the local One-Stop delivery system in accordance with section 7(e) of the Act;

(2) The services described in paragraph (b)(1) of this section are available in at least one physical center from which job seekers and employers can access them; and

(3) The Memorandum of Understanding between the State Agency local One-Stop partner and the Local Workforce Investment Board meets the requirements of § 662.300.

§ 652.203 Who is responsible for funds authorized under the Act in the workforce investment system?

The State Agency retains responsibility for all funds authorized under the Act, including those funds authorized under section 7(a) required for providing the services and activities delivered as part of the One-Stop delivery system.

§ 652.204 Must funds authorized under section 7(b) of the Act (the Governor's reserve) flow through the One-Stop delivery system?

No. These funds are reserved for use by the Governor for the three categories of activities specified in section 7(b) of the Act. However, these funds may flow through the One-Stop delivery system.

§ 652.205 May funds authorized under the Act be used to supplement funding for labor exchange programs authorized under separate legislation?

(a) Section 7(c) of the Act enables States to use funds authorized under section 7(a) or 7(b) of the Act to supplement funding of any workforce activity carried out under WIA.

(b) Funds authorized under the Act may be used under section 7(c) to

provide additional funding to other activities authorized under WIA if:

(1) The activity meets the requirements of the Act, and its own requirements;

(2) The activity serves the same individuals as are served under the Act;

(3) The activity provides services that are coordinated with services under the Act; and

(4) The funds supplement, rather than supplant, funds provided from non-Federal sources.

§ 652.206 May a State use funds authorized under the Act to provide ''core services'' and ''intensive services'' as defined in WIA?

Yes. Funds authorized under section 7(a) of the Act must be used to provide core services as defined at 20 CFR 663.150 and may be used to provide intensive services as defined at 20 CFR 663.200. Funds authorized under section 7(b) of the Act may be used to provide core or intensive services. Core and intensive services must be provided consistent with the requirements of the Act.

§ 652.207 How does a State meet the requirement for universal access to services provided under the Act?

(a) A State has discretion in how it meets the requirement for universal access to services provided under the Act. In exercising this discretion, a State must meet the Act's requirements.

(b) These requirements are:

(1) Labor exchange services must be available to all employers and job seekers, including unemployment insurance (UI) claimants, veterans, migrant and seasonal farm workers, and individuals with disabilities;

(2) The State must have the capacity to deliver labor exchange services to employers and job seekers, as described in the Act, on a Statewide basis through:

(i) Self-service,

(ii) Facilitated self-help service; and

(iii) Staff-assisted service;

(3) In each Workforce Investment Area, in at least one physical center, staff funded under the Act must provide core and applicable intensive services including staff-assisted labor exchange services.

(4) Those labor exchange services provided under the Act in a Workforce Investment Area must be described in the Memorandum of Understanding.

§ 652.208 How are core services and intensive services related to the methods of service delivery described in § 652.207(b)(2)?

Core services and intensive services may be delivered through any of the three methods of service delivery described in § 652.207(b)(2). These methods are:

(a) Self-service;

(b) Facilitated self-help services; and

(c) Staff-assisted service.

§ 652.209 What are the requirements under the Act for providing reemployment services to referred UI claimants?

In accordance with section 3(c)(3) of the Act, a State must provide reemployment services to UI claimants for whom such services are required as a condition for receipt of UI benefits. The State Agency, through the One-Stop delivery system, must provide reemployment services to UI claimants. Services must be appropriate to the needs of the UI claimants who are referred to reemployment services under any Federal or State UI law and must be provided to the extent that funds are available.

§ 652.210 What are the Act's requirements for administration of the work test and assistance to UI claimants?

(a) State UI law or rules establish the requirements under which UI claimants must register and search for work in order to fulfill the UI work test requirements.

(b) Staff funded under the Act must assure that:

(1) UI claimants receive the full range of labor exchange services available under the Act that are necessary and appropriate to facilitate their earliest return to work;

(2) UI claimants requiring assistance in seeking work receive the necessary guidance and counseling to ensure they make a meaningful and realistic work search; and

(3) UI program staff receive information about a UI claimant's ability or availability for work, or the suitability of work offered to them.

§ 652.211 What are State planning requirements under the Act?

The State Agency designated to administer funds authorized under the Act must prepare and submit a five-year Statewide plan for the delivery of services provided under the Act in accordance with WIA regulations at 20 CFR 661.220. The State Plan must contain a detailed description of services that will be provided under the Act, which are adequate and reasonably appropriate for carrying out the provisions of the Act, including the requirements of section 8(b) of the Act.

§ 652.212 When should a State submit modifications to the five-year plan?

(a) A State has the authority to submit modifications to the five-year plan as necessary during the five-year period, and to do so in accordance with the same collaboration, notification, and other requirements that apply to the original plan. Modifications are likely to be needed to keep the strategic plan a viable and living document over its five-year life.

(b) That portion of the plan addressing the Act must be updated to reflect any reorganization of the State Agency designated to deliver services under the Act, any change in service delivery strategy, any change in levels of performance, or any change in services delivered by public merit-staff employees.

§ 652.213 What information must a State include when the plan is modified?

A State must follow the instructions for modifying the strategic five-year plan as addressed in 20 CFR 661.230.

§ 652.214 How often may a State submit modifications to the plan?

A State may modify its plan as changes occur in Federal or State law or policies, Statewide vision or strategy, or if changes in economic conditions occur. A State must submit modifications to adjust service strategies if performance goals are not met.

§ 652.215 Do any provisions in WIA change the requirement that publicly funded merit-staff employees must deliver services provided under the Act?

No. The Secretary has the legal authority to set staffing standards and requirements to ensure the effective delivery of services provided under the Act. The Secretary requires that labor exchange services provided under authority of the Act, to include services to veterans, be provided by public merit-staff employees. This interpretation is authorized by and consistent with the provisions in sections 3(a) and 5(b) of the Act and the Intergovernmental Personnel Act.

§ 652.216 May the One-Stop operator provide guidance to a merit-staffed employee under the Act?

Yes. The One-Stop system envisions a partnership in which Wagner-Peyser Act labor exchange services are coordinated with other activities provided by other partners in a One-Stop setting. As part of the local Memorandum of Understanding, One-Stop partners may agree to have staff receive guidance from the One-Stop operator regarding the provision of labor exchange services. Personnel matters, including compensation, personnel actions, terms and conditions of employment, performance appraisals, and accountability of merit-staff employees funded under the Wagner-

Peyser Act, remain under the authority of the State Agency (including such matters that are delegated to any other public agency). Such guidance given to employees must be consistent with the provisions of the Wagner-Peyser Act.

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Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121, 125, 135, and 145
Service Difficulty Reports; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, 135, and 145

[Docket No. 28293; Notice No. 95–12A]

RIN 2120–AF71

Service Difficulty Reports

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This document modifies a notice of proposed rulemaking (NPRM) published on August 14, 1995, that proposed revising the reporting requirements for air carrier certificate holders and certificated domestic and foreign repair stations concerning failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components. The original proposed action was prompted by an internal Federal Aviation Administration (FAA) review of the effectiveness of the reporting system and by air carrier industry concern over the quality of the data being reported by air carriers. This SNPRM addresses the concerns raised by the commenters on the original proposal. The objective of this SNPRM is to update and improve the reporting system to effectively collect and disseminate clear and concise safety information to the aviation industry.

DATES: Comments must be received on or before June 1, 1999.

ADDRESSES: Comments on this document should be delivered, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Docket No. 28293, Room 915G, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked Docket No. 28293. Comments also may be submitted electronically to the following Internet address: 9–NPRM–CMTS@faa.dot.gov. Comments may be examined in Room 915G weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Robert Corcoran, Maintenance Support Branch, AFS–640, Flight Standards Service, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125; telephone (405) 954–6508.

SUPPLEMENTARY INFORMATION:

Comments Invited

This document modifies Notice No. 95–12 (60 FR 41992, August 14, 1995). Interested persons are invited to comment on this proposal by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals also are invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the specified closing date for comments will be considered by the Administrator before taking further rulemaking action. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 28293.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, Attn: ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number of this SNPRM.

Using a modem and suitable communications software, an electronic copy of this document may be downloaded from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339) or the *Government Printing Office*'s electronic bulletin board service (telephone: (202) 512–1661) or the FAA Aviation Rulemaking Advisory Committee bulletin board service (telephone: (800) 322–2722 or (202) 267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the *Government Printing Office*'s web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this SNPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Ave. SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this SNPRM.

Persons interested in being placed on the mailing list for future NPRM's should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability of the Joint Aircraft System Component (JASC) Code

Copies of the JASC Code are available from the FAA's Regulatory Support Division (AFS–600) or on-line from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339).

Background

On August 14, 1995, the FAA issued an NPRM titled ''Operational and Structural Difficulty Reports,'' Notice No. 95–12 (60 FR 41992). That document proposed to revise the reporting requirements for air carrier certificate holders and certificated domestic and foreign repair stations concerning failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components.

The reports submitted by certificate holders and certificated repair stations, known as service difficulty reports (SDR's), provide the FAA with airworthiness statistical data necessary for planning, directing, controlling, and evaluating certain assigned safety-related programs. The reporting system provides FAA managers and inspectors with a means for monitoring the effectiveness of self-evaluation techniques being employed by certain segments of the civil aviation industry.

Currently, §§ 121.703 and 135.415 of Title 14, Code of Federal Regulations (14 CFR) require that holders of certificates issued under part 121 or part 135, respectively, submit reports on certain failures, malfunctions, or defects of specific systems and on all other failures, malfunctions, or defects that, in the opinion of the certificate holder, have endangered or may endanger the safe operation of an aircraft. Similarly, 14 CFR § 125.409 requires that part 125 certificate holders report the occurrence or detection of each failure, malfunction, or defect. In addition, 14 CFR §§ 145.63 and 145.79 contain provisions for certificated domestic and foreign repair stations, respectively, to report to the FAA serious defects in, or other recurring unairworthy conditions of, an aircraft, powerplant, propeller, or component. Air carrier certificate

holders and certificated repair stations must submit to the FAA the reports described above. In accordance with the FAA Flight Standards' Service Difficulty Program, set forth in FAA Order No. 8010.2, the information is reviewed and evaluated by the assigned Principal Maintenance Inspector (PMI) and mailed to the FAA's Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma, for input into the Service Difficulty Reporting Subsystem (SDRS). The report data are entered into the SDRS and compiled to generate a weekly summary distributed to aircraft manufacturers, air carriers, repair stations, members of the general aviation community, and various offices of the FAA. Additional review and evaluation of the data are accomplished at the Aeronautical Center to identify trends or significant reports, and the appropriate FAA office is notified if trends or significant safety items are noted.

Sections 121.705 and 135.417 contain provisions for submitting a summary report to the FAA on known or suspected mechanical difficulties or malfunctions that interrupt a flight or cause unscheduled aircraft changes, stops, or diversions en route that are not required to be reported under § 121.703 or § 135.415, respectively. Section 121.705 also requires a summary report containing information on the number of aircraft engines removed prematurely because of a malfunction, failure, or defect and the number of propeller featherings that occur in flight for other than training purposes, demonstrations, or flight checks. Section 135.417 requires summary reports on the number of propeller featherings that occur in flight for purposes other than training, demonstrations, or flight checks.

The comment period for Notice No. 95–12 closed on November 13, 1995. Comments on the proposed rule addressing numerous issues were received from individuals, part 121 and part 135 certificate holders, aviation consulting firms, industry associations, manufacturers, and labor organizations. The FAA has reviewed the comments and the changes recommended by the commenters and has made substantive changes to the proposed rule based on the comments received. Accordingly, the FAA is issuing this supplemental notice to give all interested parties an opportunity to comment on the modified proposed rule.

Discussion of Comments and Modifications to the Proposal

This preamble discussion addresses the comments received in response to Notice No. 95–12 and describes only the modifications to that proposal. However, for the convenience of the public, the text of the proposed rule is reprinted in its entirety.

14 CFR Part 127

The final rule for 14 CFR part 119, ''Commuter Operations and General Certification and Operations Requirements,'' was published on December 20, 1995 (60 FR 65832). That final rule removed part 127, ''Certification and Operations of Scheduled Air Carriers with Helicopters.'' Therefore, the proposed revisions to part 127 are no longer appropriate, and all references to part 127 have been removed from the proposal.

Section Headings

Several commenters state that the name of the proposed section headings should be changed. They state that because ''Service difficulty report'' is the generally recognized term for the required reports, it should be used for the section headings, instead of ''Operational difficulty reports'' or ''Structural difficulty reports,'' as previously proposed.

The FAA agrees. Therefore, the headings of proposed §§ 121.703, 125.409, and 135.415 have been changed from ''Operational difficulty reports'' to ''Service difficulty reports (operational).'' The headings of proposed §§ 121.704, 125.410, and 135.416 have been changed from ''Structural difficulty reports'' to ''Service difficulty reports (structural).''

Airworthiness Directives and Service Bulletins

The FAA received six comments addressing the continued submission of reports following the issuance of an airworthiness directive (AD) or service bulletin (SB). These commenters express their disappointment that a provision that would have discontinued this practice was removed from the draft NPRM presented to the FAA by the Aviation Rulemaking Advisory Committee.

Several commenters state that AD's or SB's are often issued to address a deficiency identified through the SDR program. These commenters contend that because these AD's or SB's provide a corrective action, subsequent reporting is not necessary. Commenters indicate that the continued reporting of information after the issuance of an AD only fills the SDR data base with unneeded information.

The FAA disagrees. In theory, after the issuance of an AD to address a specific problem, continued service difficulties should not occur if the prescribed correction was developed and implemented properly. If the FAA continues to receive SDR's for a particular problem after an AD has been issued and incorporated, it could indicate that the AD did not correct the original deficiency and that more work is necessary to ensure appropriate corrective action. The FAA then could revise an AD or issue subsequent AD's to address continued service difficulties.

Several other commenters contend that the proposed reporting for certain discrepancies combined with the reporting requirements for certain AD's constitutes dual reporting. These commenters state that certain AD's addressing aging aircraft issues prescribe the use of supplemental inspection documents and corrosion prevention and control programs and currently require reports of certain defects. As a result, requiring similar reports under the SDR program is unnecessary.

The FAA disagrees. The AD reporting requirements, while containing some information common to the SDRS, usually request information that is different from the type of information collected for input into the SDRS. Also, the reported AD information is used for reasons other than the analysis function of the SDRS. The aging aircraft information reported by certificate holders is submitted to the appropriate FAA aircraft certification office to determine the extent of aircraft deterioration because of age and to monitor the effectiveness of the supplemental inspection documents and corrosion prevention and control programs. Information submitted to the SDRS is used for the identification of recurring service problems.

The Proposed SDR and ODR Forms

The FAA received six comments regarding the proposed structural difficulty report and operation difficulty report forms, which were published with Notice No. 95–12 in the **Federal Register**. These forms were examples of the proposed forms that a certificate holder would be permitted to use if it chose to use a method other than electronically submitting the required reports. Unfortunately, commenters were given the impression that the forms would be the only acceptable method of report submission. Additionally, the use of two forms may have left commenters with the impression that two data bases were under development in which data from the forms would be entered. However, this is not the case.

Based on these concerns, the FAA has consolidated the proposed forms into one form titled ''Service Difficulty Report.'' The proposed form would not be the only acceptable method of providing the report information. As stated in the proposed rule, a certificate holder would be permitted to submit the required information in an electronic or other form acceptable to the Administrator. However, as described later in the discussion of the proposed changes to §§ 121.703(e) and 121.704(d), the proposal would require part 121 certificate holders to submit the information electronically beginning one year after the effective date of a final rule. After that date no other format would be acceptable for submission of SDR's under part 121.

One commenter believes that the existing data base would be deleted and replaced by information collected after the effective date of the rule. This is not the case. The existing data base will remain available for research and use by industry, and future information collected, as proposed, would be added to the existing data base.

FAA Form 337

Several commenters state that the discrepancies required to be reported by proposed §§ 121.703(a), 125.409(a), and 135.415(a) would likely result in the accomplishment of a major repair for corrective action. They state that the subsequent submission of FAA Form 337, Major Repair and Alteration (Airframe, Powerplant, Propeller, or Appliance), in addition to an SDR, constitutes a dual reporting requirement.

The FAA disagrees. FAA Form 337 serves two purposes: one is to provide an owner or operator with a record of a major repair or alteration indicating details and approval; the other is to provide the FAA with a copy of the form for inclusion in an aircraft's permanent record maintained by the FAA. In general, if the submitted FAA Form 337 uses previously approved data, it is forwarded by the Flight Standards District Office (FSDO) to the Aircraft Registration Branch in Oklahoma City, Oklahoma. However, if the data used have not been previously approved, the FSDO reviews the data to ensure compliance with applicable regulations and conformity with accepted industry practices. Upon favorable review, data approval is indicated by entering an appropriate statement on the form, and the form is returned to the applicant. This individual then completes the form and provides the completed copies to the owner or operator and the FSDO.

Because the information submitted on an FAA Form 337 and the information provided in an SDR vary considerably, the FAA has determined that these reports do not constitute a duplicate reporting requirement. For example, when submitting an SDR under the proposed rules, the required information would include the stage of flight operation or ground operation during which the discrepancy was discovered; the nature of the failure, malfunction, or defect; aircraft total time and cycles; and other information necessary for a more complete analysis of the cause of the failure, malfunction, or defect, including available information pertaining to type designation of the major component and the time since the last maintenance overhaul, repair, or inspection. None of this information is requested or required on FAA Form 337. Furthermore, the FAA contends that the discrepancies described by proposed §§ 121.703(a), 125.409(a), and 135.415(a) may not always result in the accomplishment of a major repair, and that submission of either an FAA Form 337 or an SDR will not always require the submission of the other form.

Sections 121.703(a)(2), 121.703(a)(4), 125.409(a)(2), 125.409(a)(4), 135.415(a)(2), and 135.415(a)(4)

The FAA received three comments regarding the submission of reports concerning any false fire or smoke warnings that require the use of emergency procedures. One commenter states that the phrase ''use of emergency procedures'' could be misinterpreted. This commenter states that the phrase could mean anything from reference to the abnormal procedures checklist to the declaration of an emergency to air traffic control. Another commenter contends that all false fire or smoke warnings should be reported, whether or not emergency action is taken. The third commenter questions whether the rule should require the reporting of indications that occurred only during revenue service and not during maintenance checks.

To clarify what information must be reported, the FAA has removed the phrase ''that require the use of emergency procedures'' from these sections of the proposal. Similar revisions have been made to §§ 121.703(a)(4), 125.409(a)(4), and 135.415(a)(4). The FAA also has revised the remaining language in paragraph (a)(2) of each section to read ''any false warning of fire or smoke.'' In addition, proposed §§ 121.703(e)(5), 125.409(e)(5), and 135.415(e)(5) are revised to clarify the requirement that failures, malfunctions, or defects occurring during flight operations and ground operations must be reported.

Sections 121.703(a)(5), 125.409(a)(5), and 135.415(a)(5)

The FAA received two comments regarding the reporting of an engine flameout or shutdown. Each of these commenters states that an engine flameout during ground operations or taxi should not be a reportable item. One commenter states that an engine flameout should be reportable only if it occurs after the initiation of the takeoff roll.

The FAA disagrees. The FAA contends that an engine flameout or uncommanded engine shutdown is not a normal occurrence regardless of when it occurs. Such incidents could be an indication of a system malfunction or fault. The proposed rule language would require the reporting of an engine flameout or shutdown during ground or flight operations as previously proposed. The FAA notes, however, the proposed rule would require the reporting of an engine flameout or shutdown only if it is the result of a failure, malfunction, or defect. Reports of intentional engine shutdowns such as those that occur during flightcrew training, test flights, or while taxiing to reduce fuel consumption would not be required.

Sections 121.703(a)(7), 125.409(a)(7), and 135.415(a)(7)

One comment was received regarding the dumping of fuel by aircraft in flight. The commenter states that he is familiar with several events during which aircraft dumped significant amounts of fuel in preparation for a landing following an engine malfunction that occurred shortly after takeoff. The commenter states that fuel dumping has received little attention from environmental groups, but reports of fuel dumping should be required by the Federal Aviation Regulations.

While the comment may have merit, reporting of fuel dumping with regard to environmental effects is beyond the scope of this rulemaking action, and therefore is not addressed in this proposal.

During preparation of this document, the FAA determined that any failure, malfunction, or defect concerning a fuel system or fuel dumping system that affects fuel flow or causes hazardous leakage should be reported regardless of whether it occurs during ground or flight operations. Therefore, the FAA has revised the proposed rule by removing the language that limited the

reporting of such service difficulties to those that occur during flight.

Sections 121.703(a)(8), 125.409(a)(8), and 135.415(a)(8)

Two commenters express confusion about the proposed reporting requirements for landing gear failures, malfunctions, or defects. These commenters indicate that the proposed rule language could require a report whether a landing gear defect ''resulted'' in an extension or retraction, or ''became apparent'' during a landing gear extension or retraction that was selected by the pilot. The commenters contend that the rule language is not consistent with the explanation in the preamble.

The FAA intends that all failures, malfunctions, or defects associated with landing gear extension or retraction during flight be reported. Therefore, the proposed rule language remains unchanged.

The final rule for part 119 revised current § 121.703(a)(12) to require the reporting of an ''unwanted'' landing gear extension or retraction, or an ''unwanted'' opening or closing of landing gear doors during flight. The use of the term ''unwanted'' is superfluous because this section only requires the reporting of failures, malfunctions, or defects associated with landing gear extension or retraction. Therefore, the FAA proposes to remove the term ''unwanted'' from § 121.703(a)(8). Similar changes are proposed in §§ 125.409(a)(8) and 135.415(a)(8).

Sections 121.703(a)(9), 125.409(a)(9), and 135.415(a)(9)

The FAA received one comment regarding the reporting of a failure, malfunction, or defect concerning any brake system component that results in any detectable loss of brake actuating force when the aircraft is in motion on the ground. The commenter states that the subsequent statement that excludes defects deferrable according to the Minimum Equipment List (MEL), as provided for in 14 CFR § 91.213, is confusing. The commenter states that the MEL item may have induced the problem and that excluding a report of such a failure would prevent the collection of information that may be beneficial for analysis. Another comment concerning the MEL states that if MEL discrepancies are reported, the adequacy of the MEL can be assessed objectively.

The FAA's intent was to avoid having discrepancies such as hydraulic leaks and inoperative anti-skid systems reported to the SDRS because, under certain circumstances, these discrepancies may not be critical to the continued safe operation of the braking system. However, the FAA has reconsidered this proposal and agrees with the commenters that such information, regardless of deferability in accordance with the MEL, should be reported. Therefore, the FAA has revised the proposal accordingly.

Sections 121.703(a)(10), 125.409(a)(10), and 135.415(a)(10)

The FAA received six comments that address the reporting of failures, malfunctions, or defects that result in rejected takeoffs (RTO's) after initiation of the takeoff roll or emergency actions during flight. Two of these commenters state that the proposed rule language should be amended to include ''when that defect or malfunction has endangered or may endanger the safe operation of the aircraft.'' One commenter recommends only reporting those RTO's that occur above a certain speed and recommends the establishment of a standard V_1 percentage above which RTO's would be reported. Another commenter states that reports of RTO's should be limited to those that involve a ''significant'' safety problem. One commenter questions the need for reporting when the RTO's occur during maintenance activities, such as test flights.

The FAA has determined that the rule, as proposed, would result in the collection of useful data on all RTO's. The FAA contends that attempting to define terms such as ''significant,'' as suggested, is not feasible because of the subjective nature of the term. Because one commenter states that the use of the term ''emergency'' is ambiguous, the FAA has added for clarification the phrase ''as defined by the Aircraft Flight Manual or Pilot's Operating Handbook'' to the proposed rule language. The FAA notes that the collected data would not include RTO's associated with animals or debris on runways because such events would not be the result of an aircraft component or system failure, malfunction, or defect.

Sections 121.703(a)(11), 125.409(a)(11), and 135.415(a)(11)

The FAA received five comments concerning the reporting of failures, malfunctions, or defects associated with emergency evacuation systems or components. These commenters similarly state that reports on the failure of emergency lighting or the degradation of emergency egress lighting batteries should be excluded from the reporting requirements. The commenters state that individual component failures that do not affect the operation of the emergency evacuation system should not be reported.

The FAA disagrees. The current rules pertaining to the reporting of the described failures provide the FAA with an indication of evacuation system reliability, as well as the reliability of components within evacuation systems. The FAA contends that if an evacuation slide has an on-aircraft life of 12 months, for example, the components within that slide should last 12 months. Failure of a slide's emergency egress lighting batteries is an indication of their reliability and may indicate that a change in maintenance procedures or life limits is necessary. The proposed rule language has been revised to require reporting of all failures, malfunctions, or defects of an emergency evacuation system or component including those deferred in accordance with a MEL.

Sections 121.703(a)(12), 125.409(a)(12), and 135.415(a)(12)

In this supplemental notice, the FAA proposes to add a new reporting requirement for failures, malfunctions, or defects that are not reported under the current regulations. Reports would be required for failures, malfunctions, or defects of autothrottle, autoflight, or flight control systems or components found to be defective or that fail to perform their intended function. The reporting requirements would include scenarios in which the primary mode of a system fails, and a secondary system immediately and appropriately assumes operation. Under such a scenario, the failure of the primary mode would be reportable.

There have been two air carrier accidents in the United States that immediately followed unexplained airplane rolls. The FAA is aware of other roll, pitch, or yaw events that have occurred, although reports are not always made to the SDRS. The FAA notes that some of these events have required full deflection of the flight controls to regain control of the aircraft. Other events have occurred involving ice in autopilot actuators, which prevented the actuators from disengaging when the autopilot was disengaged.

Although such events could be reported under current § 121.703(c) or § 135.415(c), the SDR data base does not indicate that such reports are being made. Therefore, the FAA has added a proposed requirement to report failures, malfunctions, or defects of autothrottle, autoflight, or flight control systems or components in proposed

§§ 121.703(a)(12), 125.409(a)(12), and 135.415(a)(12).

Sections 121.703(c), 121.704(b), 125.409(c), 125.410(b), 135.415(c), and 135.416(b)

In this supplemental notice, the FAA proposes to revise the language in §§ 121.703(c), 125.409(c), and 135.415(c). The proposed rule states that each certificate holder shall report any failure, malfunction, or defect in an aircraft system, component, or powerplant that occurs or is detected at any time if that failure, malfunction, or defect has endangered or may endanger the safe operation of an aircraft. The phrase ''in its opinion'' would no longer be included in the rule language. The proposed provision would provide the FAA with additional information concerning failures, malfunctions, or defects, not otherwise specified in the proposed rule, involving modern, complex aircraft. Similar revisions would be included in proposed §§ 121.704(b), 125.410(b), and 135.416(b).

Sections 121.703(d), 121.704(c), 125.409(d), 125.410(c), 135.415(d), and 135.416(c)

The FAA received six comments that address the provisions of proposed §§ 121.703(d), 125.409(d), and 135.415(d). These comments address the submission of reports directly to a centralized collection point rather than the certificate holder's FSDO, the 72-hour reporting requirement, the availability of reports for examination by the FSDO, and the perception that the proposed rule prescribes dual reporting requirements. One commenter asserts that the requirements for reports to be reviewed by the FSDO before they are entered into the SDR database should be retained.

The FAA disagrees. The current requirement for FSDO review before forwarding the report to Oklahoma City allows the FSDO to review the reports for completion and accuracy and assess certificate holder trends. Because the proposed reporting requirements are more precise than the existing rules, an accuracy review of the report by the FSDO should no longer be required. Current routing requirements create a delay of approximately 4 to 5 weeks from the date of occurrence to the date of data entry. The FAA contends that the continued FSDO review would only delay the timely entry of data into the SDRS.

Because of concerns raised by the commenters about making the reports available for FSDO review, the duration of such availability, and the perception that this constitutes a dual reporting requirement, the FAA has added a statement to the proposed rule that the reports be made available for review for 30 days. The FAA contends that certificate holders usually retain SDR's indefinitely; therefore, a 30-day retention requirement should place minimal burden on the certificate holders. Certificate holders would not be required to submit a copy of the report to their PMI, but would be required to permit the inspector to review any reports submitted within the previous 30 days.

FAA inspectors have expressed concern that their lack of review would ''take them out of the loop'' and would not permit them to remain aware of difficulties experienced by the certificate holder; however, inspectors have access to the FAA's SDR data base and the reports are currently available for review in the SDR Summary (provided by AFS–600) on computer services such as FedWorld and the Integrated Safety Information System. The FAA will use inspector guidance to emphasize that inspectors should use available computer systems to review SDR data. However, as previously noted, certificate holders would be required to permit inspectors to review any reports submitted within the previous 30 days.

The FAA notes that, with regard to the provision for certificate holders to make reports available to the FSDO for review as proposed in the NPRM, the final rule for part 119 removed the references to ''Flight Standards District Office'' in § 121.703. Specifically, the FAA revised the report submission requirements of § 121.703(d) by replacing ''FAA Flight Standards District Office charged with the overall inspection of the certificate holder'' with ''certificate-holding district office.'' In addition, § 119.3 defines the certificate-holding district office as the FSDO that has responsibility for administering the certificate and is charged with the overall inspection of the certificate holder's operations. Therefore, to maintain consistency, proposed §§ 121.703(d), 121.704(c), 125.409(d), 125.410(c), 135.415(d), and 135.416(c) have been revised to reflect this change.

Four commenters mention the 72-hour reporting requirement. Two of these commenters state that the 72-hour reporting requirement is inappropriate, and at times is impossible to meet for aircraft undergoing heavy maintenance. The commenters recommend revising the current rule so that, under such circumstances, reports would be required 72 hours after the aircraft is returned to service. One commenter states that the 72-hour reporting requirement should only be required for those discrepancies that could cause the ''sudden loss of an aircraft.'' Another commenter states that there is no justification for the 72-hour reporting requirement.

The FAA has reviewed the comments and determined that a 96-hour requirement for the submission of reports is more appropriate than the current 72-hour reporting requirement. However, the FAA disagrees with the comment that for aircraft undergoing heavy maintenance, the 96-hour reporting requirement should begin when the aircraft is approved for return to service, because there may be a substantial period of time between discovery of the failure, malfunction, or defect during a heavy maintenance check and the return of the aircraft to service. In addition, the FAA contends that the increase from 72 hours to 96 hours for reporting would allow ample time for certificate holders to gather the necessary information to submit a detailed report and reduce supplemental reporting.

One commenter notes that the text of proposed § 135.415(d) states that reports must be submitted to the ''location where the data base is maintained'' rather than a centralized collection point, as stated in the similar sections of the proposal. The FAA notes that this was an inadvertent error, and the proposed rule language has been revised to read ''to a centralized collection point'' for consistency with similar proposed sections.

For the reasons discussed above proposed §§ 121.704(c), 125.410(c), and 135.416(c) also have been revised to increase the reporting requirement to 96 hours and require that SDR's be made available for 30 days for examination by the certificate holding district office.

Sections 121.703(e), 125.409(e), and 135.415(e)

The FAA received two comments concerning the introductory text of §§ 121.703(e), 125.409(e), and 135.415(e). One commenter indicates the perception that the proposed rule language would require both an electronic copy and a paper copy of any reports submitted. That commenter also states that reporting electronically should be optional. In addition, that commenter states that the word ''should'' is not appropriate language for a rule. The other commenter expresses concern that the rule as proposed would not require the submission of information that is necessary to conduct meaningful analysis because items

contained in previously proposed paragraphs (e)(7) through (e)(9) would be optional information that certificate holders could but would not be required to submit.

The FAA has revised the proposed rule language to clarify that a report must be submitted electronically or in another form acceptable to the Administrator. It was not the FAA's intention to require the submission of reports in both electronic and paper form. However, the FAA proposes revising § 121.703(e) to provide that 1 year after the effective date of the rule, part 121 certificate holders would be required to submit reports in an electronic form. This proposed revision is consistent with Department of Transportation (DOT) requirements, contained in 14 CFR § 234.5 and section 19–1 of 14 CFR part 241, for the electronic submission of certain reports and data, and should impose little additional burden on part 121 certificate holders. Part 125 and part 135 certificate holders would retain the option of submitting the required information in electronic or paper form. Part 145 certificate holders also would retain this option unless the repair facility submits the information on behalf of a part 121 certificate holder in accordance with proposed §§ 121.703(g) and 121.704(f).

The proposed rule also has been reworded to require the submission of all of the information listed in paragraph (e). The increase from 72 hours to 96 hours for the submission of the reports should permit the timely collection of the information previously proposed as optional in paragraphs (e)(7) through (e)(9). The increase in the amount of time allowed for submission of reports should reduce the number of supplemental reports submitted to update the SDR data base, a concern that was expressed by several other commenters.

Sections 121.703(e)(1), 125.409(e)(1), and 135.415(e)(1)

As previously proposed, these sections required that an SDR include the manufacturer, the model, the serial number, and the registration number of the aircraft. When the service difficulty involves an engine or propeller, the manufacturer, the model, and the serial number of those items are necessary for accurate trend analysis. Therefore, these sections have been revised to require the reporting of the manufacturer, the model, and the serial number of the aircraft, engine, or propeller. The requirement to provide the registration number of the aircraft is now contained in proposed §§ 121.703(e)(2), 125.409(e)(2), and 135.415(e)(2).

Sections 121.703(e)(3), 125.409(e)(3), and 135.415(e)(3)

The FAA has revised the proposed rule language in these sections to require that an SDR include the operator designator rather than the name of the operator. Each certificate holder is assigned a certificate number. The operator designator is the first four alphanumeric characters of the certificate number. This revision is necessary to avoid potential confusion when operators have similar names (for example, American Airlines, Inc.; American Trans Air, Inc.; and America West Airlines, Inc.).

Proposed §§ 121.704(d)(2), 125.410(d)(2), and 135.416(d)(2) also would require that an SDR submitted under these sections include an operator designator.

Sections 121.703(e)(4), 125.409(e)(4), and 135.415(e)(4)

Two commenters address the content of previously proposed §§ 121.703(e)(3), 125.409(e)(3), and 135.415(e)(3) and indicate that providing all the information required by those paragraphs may not be possible. One commenter states that his operation does not use flight numbers. The other commenter states that a flight number may not be appropriate if the defect was discovered during maintenance. This commenter also questions what station information would be appropriate if a discrepancy occurred during flight.

After further review, the FAA has determined that the proposed requirement for submission of the flight number and the station where the failure, malfunction, or defect was detected is not necessary. Proposed §§ 121.703(e)(4), 125.409(e)(4), and 135.415(e)(4) would now require only the date on which the failure, malfunction, or defect was discovered. The requirement to report the stage of operation during which the service difficulty occurred (previously included in proposed §§ 121.703(e)(3), 125.409(e)(3), and 135.415(e)(3)) is now contained in §§ 121.703(e)(5), 125.409(e)(5), and 135.415(e)(5) as discussed in the following paragraph.

Sections 121.703(e)(5), 125.409(e)(5), and 135.415(e)(5)

The FAA has clarified the requirement to report the stage of operation during which the service difficulty occurred by revising it to read ''the stage of flight or ground operation during which the failure, malfunction, or defect was discovered.'' These operations may include, for example, ground handling, taxi, takeoff, climb, cruise, descent, approach, landing, or maintenance inspections. The intent of the proposal is to require reports for all of the listed failures, malfunctions, or defects, regardless of when they are detected. This clarification also addresses comments on §§ 121.703(a), 125.409(a), and 135.415(a) about whether reports would be required only for defects detected during flight or if defects occurring during ground operations also would be reportable.

Sections 121.703(e)(7), 121.704(d)(6), 125.409(e)(7), 125.410(d)(6), 135.415(e)(7), and 135.416(d)(6)

The FAA received seven comments concerning the inclusion of the applicable FAA-modified Air Transport Association Specification 100 (ATA Code) in the reporting requirements. The commenters cite various reasons for their lack of support for this requirement. Commenters express concern that the use of the FAA-modified system would become required throughout their operations, resulting in tremendous expense for manual revisions and computer system modifications. They also express concern that required use of the proposed codes would result in additional review requirements and that the modified codes add no value or safety benefit to the current system. Commenters also state that not all manufacturers prepare their manuals in accordance with the ATA Code system and that requiring the use of the codes creates the opportunity for inconsistent compliance.

To address these concerns, the FAA has modified the proposed rule, which would require use of the applicable JASC Code. In May 1991, the FAA introduced the coding scheme used in the JASC Code for the technical classification of SDR's. This code, which was developed by the Safety Data Analysis Section of the FAA's Flight Standards Service with input from Transport Canada, is a modified version of the ATA Code. The JASC Code has been adopted by the Civil Aviation Authority of Australia and by Transport Canada. The current ATA Code system basically is consistent with the JASC Code system; therefore, users of the ATA Code should not need to significantly revise their procedures to adopt the JASC Code. The Safety Data Analysis Section often changes reporters' incorrect codes to the appropriate JASC Code before data are entered in the SDRS to ensure that correct data are captured during queries. This procedure ensures proper subsequent data analysis.

Use of the JASC Code provides standardization between users and nonusers of the ATA Code, just as the ATA Code provides consistency for its users. Copies of the JASC Code are available from the FAA's Regulatory Support Division (AFS–600) or on-line via the FedWorld system (see ''Availability of JASC Code'').

Sections 121.703(e)(8), 121.703(d)(7), 125.409(e)(8), 125.410(d)(7), 135.415(e)(8), and 135.416(d)(7)

The FAA received four comments concerning the proposed requirement for submitting aircraft total time and total cycles. The commenters state that if the failure, malfunction, or defect involves a component, the aircraft total time and total cycles may not be readily available, especially if an outside vendor is involved in providing the corrective action. In the case of a component defect, the aircraft total time and total cycles may be irrelevant and too time consuming to determine. Two commenters state that total cycles may not be available for certain certificate holders who use aircraft for which cycle recording is not required. These commenters question whether the proposed rule would require those certificate holders to begin tracking aircraft total cycles.

The FAA agrees with these comments and has revised the proposed rule accordingly. Because tracking the accumulation of aircraft cycles may not be a requirement for certain type designs, this information would only be required, if applicable. Proposed §§ 121.703(e)(8), 121.704(d)(7), 125.409(e)(8), 125.410(d)(7), 135.415(e)(8), and 135.416(d)(7) have been modified accordingly. Also, the FAA has made the total time and total cycle information requirement more specific in proposed §§ 121.703(e)(8), 121.409(e)(8), and 135.415(e)(8) so that information on the affected part would be required, rather than only aircraft total time and total cycles.

Sections 121.703(e)(9), 125.409(e)(9), and 135.415(e)(9)

One commenter states that requiring the identification of the engine or component serial number is not justifiable when it is not required to report the engine or component manufacturer and part number.

The FAA agrees and has added the requirement for the submission of the manufacturer, manufacturer part number, and part name of the malfunctioning item to the proposed rule. In addition, the location of the malfunctioning item would be required.

The FAA also has revised these sections to require that the information be provided for the component that failed, malfunctioned, or was defective, if applicable. In some instances, it may be possible to further identify the specific part, within that component, that failed, malfunctioned, or was defective. For example, when a generator fails, during disassembly it may be discovered that the failure was caused by a problem with a bearing. In such cases, the FAA has determined that it also is necessary for accurate trend analysis that an SDR contain the manufacturer, manufacturer part number, part name, serial number, and location of that part (the bearing, in this example). Therefore, proposed §§ 121.703(e)(10), 125.409(e)(10), and 135.415(e)(10) have been added to require the reporting of this information. The FAA notes that in some cases the component causing the service difficulty may not contain any parts (for example, a cracked windscreen). In those cases, no information would be required under proposed §§ 121.703(e)(10), 125.409(e)(10), and 135.415(e)(10).

Sections 121.703(e)(11), 125.409(e)(11), and 135.415(e)(11)

During the review of comments and preparation of this document, the FAA determined that the proposed rule language should be clarified by substituting the phrase ''precautionary or emergency action taken'' for ''emergency procedure effected.'' This revision is necessary because certain indications may require an aircraft to return to the gate for precautionary reasons (for example, an unusual or abnormal fuel quantity indication while taxiing for takeoff). Such events may not require the use of emergency procedures; therefore, certain certificate holders may not report the information under the existing or previously proposed rules. However, to ensure that all appropriate information is collected, the FAA wants reports of the precautionary or emergency action taken.

Sections 121.703(e)(13), 121.704(d)(9), 125.409(e)(13), 125.410(d)(9), 135.415(e)(13), and 135.416(d)(9)

The FAA has revised the proposed rule language by adding a requirement that an SDR include a unique control number for an occurrence, in a form acceptable to the Administrator. The following describes an acceptable form for the unique control number. The control number would begin with the first four alphanumeric characters of the submitter's certificate number. The next four numbers would be used to designate the calendar year in which the SDR is submitted. The remaining numbers would be generated by the submitter. For example, for the unique control number ABCD199700001, ''ABCD'' would denote the first four characters of the submitter's certificate number, ''1997'' would indicate that the SDR was filed in 1997, and ''0000001'' would indicate that the SDR relates to the first occurrence reported by the submitter for that year. When a supplemental SDR is submitted, the submitter would use the unique control number from the original SDR, add the new or modified information to the original SDR, and submit the supplemental report.

The use of the unique control number will reduce the number of duplicate reports for the same occurrence in the SDR data base and provide a more simplified method for the FAA and industry to reference an SDR. Currently, FAA resources are expended to relate supplemental information to the original report.

Proposed §§ 121.704(d)(9), 125.410(d)(9), and 135.416(d)(9) also would require that an SDR submitted under these sections include a unique control number for the occurrence.

Sections 121.703(f), 125.409(f), and 135.415(f)

Two commenters state that the proposed rule language pertaining to reporting under 14 CFR § 21.3 provides manufacturers with a loophole to avoid SDR reporting, thereby preventing a meaningful comparison to service difficulties.

The FAA disagrees. Sections 121.703(f), 125.409(f), and 135.415(f) apply to the few operators who also happen to be the type certificate holder of the aircraft, aircraft engine, or propeller in which a failure, malfunction, or defect has been discovered. Other certificate holders would make a report as prescribed by the other provisions of the proposed rule. Although reports made under to § 21.3 and proposed §§ 121.703(a), 125.409(a), and 135.415(a) would contain common information, the FAA disagrees with the commenters' contention that the information should be compiled into a single data base for meaningful comparison. Comparison of the information may not result in useful data. Reports submitted under §§ 121.703(a), 125.409(a), and 135.415(a) identify problems on aircraft that are in service. Reports submitted under § 21.3 identify manufacturing deficiencies and are used by the appropriate FAA Aircraft Certification

Office to address such deficiencies and correct them during subsequent manufacturing activity. The FAA contends that the information gathered through these separate reporting requirements should remain separate. The reporting requirements of § 21.3 may be reviewed in a separate rulemaking action in the future; however, such review and potential revision is beyond the scope of this rulemaking activity.

Sections 121.703(g), 125.409(g), and 135.415(g)

Three commenters request clarification of the proposed provision which would permit a part 121, part 125, or part 135 certificate holder to assign the service difficulty reporting task to a certificated repair station. Two of these commenters indicate that without clear lines of responsibility, inconsistent reporting will result. These two commenters also recommend that reporting be the responsibility of the person returning the aircraft or other item to service. Another commenter questions whether the certificate holder would have to grant reporting authority in writing to the repair station and whether certificate holders would be required to maintain lists of repair stations to which they have granted such authority.

The FAA offers the following for clarification: The reporting responsibility ultimately lies with the certificate holder for the aircraft. However, a certificate holder could, in the contractual agreement for the maintenance activity made with a repair station, assign to the repair station the task of submitting the required reports. This assignment would permit the repair station to submit the reports as the repair station discovers discrepancies during maintenance of the operator's equipment without repeatedly contacting the operator. If such an arrangement is made to meet the proposed requirements, the repair station would submit the data required by the proposed SDR requirements, although repair stations are not governed by part 121, part 125, or part 135. The FAA emphasizes that such arrangements are optional and that the details of such arrangements are contractual, not regulatory. The FAA also emphasizes that the responsibility for the submission of the reports would still remain with the certificate holder, and that the certificate holder would still be required to make the reports available for review for 30 days.

Sections 121.703(h) and (i), 121.704(g) and (h), 125.409(h) and (i), 125.410(g) and (h), 135.415(h) and (i), and 135.416(g) and (h)

During preparation of this supplemental notice, the FAA noted that the requirements prescribed by current §§ 121.703(g) and (h) and 135.415(g) and (h) were not retained in Notice No. 95–12. These sections address the withholding of incomplete reports and the submission of supplemental reports. Although the change from 72 hours to 96 hours for the submission of reports is intended to reduce the number of supplemental reports required, the intent was not to eliminate supplemental reporting. Under the proposal, supplemental reports would still be required for the submission of information that was not available at the time the original report was submitted, as is required under the existing rules. Therefore, proposed §§ 121.703(h) and (i), 125.409(h) and (i), and 135.415(h) and (i), which address the submission of supplemental reports, have been added in this proposal. Equivalent requirements are contained in proposed §§ 121.704(g) and (h), 125.410(g) and (h), and 135.416(g) and (h).

In adding the proposed requirement for submission of supplemental reports, the FAA has modified the current language of §§ 121.703(h) and 135.415(h). The FAA intends that all additional information, from whatever source, be submitted in the supplemental reports, including information obtained from the manufacturer, the operator's internal maintenance organization, or a certificated repair station. The FAA has further modified the current language to require the certificate holder to reference the unique control number from the original report. As previously discussed, use of this number will ensure that the supplemental information is traceable to the original report.

Sections 121.704(a), 125.410(a), and 135.416(a)

The FAA received six comments concerning use of the terms ''primary structure'' (PS) and ''principal structural element'' (PSE) in the introductory text of proposed §§ 121.704(a), 125.410(a), and 135.416(a). These commenters express concern that not all manufacturers of aircraft operated under parts 121, part 125, and part 135 identify portions of the airframe as a PS or a PSE. The commenters state that although in many cases the identification of a PS or a PSE is possible by evaluation of an item's function, this is not always the case. Two commenters note inconsistencies within paragraph (a) of each section.

The FAA agrees with the concerns of the commenters. Because of these concerns, the FAA has revised proposed §§ 121.704(a), 125.410(a), and 135.416(a). The revised sections would require each certificate holder to report the occurrence or detection of each failure or defect related to corrosion, cracks, or disbonding that requires replacement of the affected part, or that requires rework or blendout because the corrosion, cracks, or disbonding exceeds the manufacturer's established allowable damage limits. The revised sections also would require reports for cracks, fractures, or disbonding in a composite structure that the equipment manufacturer has designated as a PS or a PSE. This clarification would alleviate the requirement for submitting reports about cracked composite radomes, fairings, or lift spoilers, while ensuring that cracks in composite wing structures are reported.

The previously proposed requirement for the submission of information on failures or defects repaired in accordance with data approved by a Designated Engineering Representative (DER) or other approved data not contained in the manufacturer's maintenance manual also has been revised. In addition to reports of other failures or defects, the revised proposal would require the submission of information on any failures or defects repaired in accordance with data not contained in the manufacturer's maintenance manual so that information on aircraft without prescribed allowable damage limits also would be reported.

Sections 121.704(d), 125.410(d), and 135.416(d)

The FAA received six comments regarding proposed §§ 121.704(d), 125.410(d), and 135.416(d). The majority of these comments were similar to comments on §§ 121.703(e), 125.409(e), and 135.415(e), described previously, regarding the reporting of optional information.

One commenter specifically addresses previously proposed paragraph (d)(7) of each section and states that the identification of a structural part should remain optional because many structural parts are several feet in length and the part number alone may not provide an adequate description of the damage location. The commenter notes that a part number may add no value when a detailed description of the damage location (including station, waterline, butt line) is provided.

The FAA agrees. Therefore, the FAA has not included the manufacturer's part number and serial number of the defective item in the list of reportable items. The FAA notes that proposed §§ 121.704(d)(5), 125.410(d)(5), and 135.416(d)(5) would require the certificate holder to report the part name, part condition, and location of the failure or defect. The addition of a reporting requirement for the part name and part condition is necessary for accurate trend analysis.

The FAA also has added a requirement in proposed §§ 121.704(d)(4), 125.410(d)(4), and 135.416(d)(4) that an SDR include the stage of ground operation during which the failure or defect was discovered. Such operations may include scheduled and unscheduled maintenance or servicing of the aircraft. The FAA has deleted the previously proposed requirement to report the ''nature of the failure or defect.''

In addition, the FAA has revised the proposed rule to require the submission of all of the information listed in §§ 121.704(d), 125.410(d), and 135.416(d). The FAA has determined that this requirement is necessary to ensure that information such as corrosion classification and crack length is reported. The FAA notes that only those certificate holders who have a required corrosion prevention and control program are required to report corrosion classification information. The addition of proposed §§ 121.704(g) and (h), 125.410(g) and (h), and 135.416(g) and (h) would permit the reporting of this information when it becomes available.

Consistent with the proposed revision to § 121.703(e), the FAA has revised § 121.704(d) to provide that 1 year after the effective date of the rule, part 121 certificate holders would be required to submit reports in an electronic form.

Sections 121.705 and 135.417

The FAA received three comments concerning § 135.417. Two of these comments address the proposal that would require reports following each interruption to a flight for any aircraft, rather than for just multiengine aircraft, as required by the existing rule. These commenters state that this change is significant and needs to be addressed.

The FAA agrees. The proposal would require reports for all such interruptions, regardless of whether they occurred in a single- or multiengine aircraft for operations conducted under part 135. The FAA contends that many aircraft use parts or engines that are in common use between part 121, part 125, or part 135 certificate holders (for example, the Cessna Caravan and the Beechcraft 1900, which both use the Pratt & Whitney PT–6 engine). Also, the FAA has added unscheduled engine removals caused by known or suspected mechanical difficulties to the list of items that would be required to be reported. This change will facilitate the continued compilation of data for preparation of the FAA's Air Carrier Aircraft Utilization and Propulsion Reliability Report.

One commenter addresses the proposed change in § 135.417 for the submission of reports from the 10th day of the month following an interruption to the regular and prompt submission of reports, which would have made part 135 consistent with current § 121.705. The commenter contends that the phrase ''regularly and promptly'' is too vague.

The FAA agrees and has changed the language of proposed §§ 121.705 and 135.417 to require that reports be submitted by the 10th day of the month following the occurrence.

Sections 145.63 and 145.79

For consistency with the proposed requirements of part 121, part 125, and part 135, the FAA has revised these sections to require that reports of serious defects or recurring unairworthy conditions be submitted to a centralized collection point as specified by the Administrator. The FAA has revised the time period for reporting serious defects or unairworthy conditions from 72 hours to 96 hours for the same reason.

Paperwork Reduction Act

This proposal contains information collections that are subject to review by OMB under the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The title, description, and respondent description of the annual burden are shown below.

Title: Service Difficulty Reports.

Description: Under current regulations, certificate holders operating under parts 121, 125, and 135 and part 145 certificated domestic and foreign repair stations are required to report service difficulties to the FAA. The objective of the revised proposed rule is to update and improve the reporting system to effectively collect and disseminate clear and concise safety information to the aviation industry. This would be done through a series of changes that include:

- Permitting part 121, 125, and 135 certificate holders to authorize a repair station to submit an SDR on their behalf;
- Permitting the electronic submission of SDR data (certificate holders operating under part 121 would be required to report electronically 1 year after the effective date of a final rule);
- Eliminating dual reporting from both air carriers and repair stations;
- Reducing the Principal Maintenance Inspector's (PMI's) workload;
- Requiring that each SDR include a unique control number for an occurrence; and
- Adding some additional reporting requirements for part 121, 125, and 135 certificate holders on information that has not been collected before or had been collected through voluntary reporting.

Description of Respondents: Businesses or other for-profit organizations.

This proposal would constitute a recordkeeping burden for certificate holders operating under parts 121, 125, and 135, and part 145 certificated repair stations that currently must report service difficulties. The FAA notes that the current service difficulty reporting requirements were approved under OMB assigned Control Numbers 2120–0008, 2120–0085, 2120–0003, and 2120–0039.

The FAA expects that this proposal would affect 156 part 121 certificated air carriers, 2,940 part 125 and 135 certificated air carriers, and 4,599 part 145 certificated repair stations. The proposed rules, while imposing additional reporting and recordkeeping requirements on those operators, would have the following impacts on these businesses:

- Allowing a repair station to file an SDR on behalf of a certificate holder operating under part 121, 125, or 135 (saving 385 hours annually); and
- Require certificate holders to report certain additional service difficulties and include new information in the SDR (adding 1,725 hours annually for air carriers and 57.5 hours annually for repair stations).

Accordingly, the FAA estimates that these proposed rules increase the reporting and paperwork requirements for industry by 1,398 hours annually. The total annual reporting burden costs sums to $31,464. These cost figures are based on estimates provided in the FAA's ''Regulatory Analysis.''

In addition, under the proposal, certificate holders operating under part 121 would be required to report SDR's electronically 1 year after the effective date of the rule. The FAA estimates that it would take approximately 1 hour for a certificate holder to program its computers to permit electronic submission of the report. In addition, it may be necessary for some certificate

holders to install additional software to convert to an IBM-compatible system to run the necessary software. Total first year costs are expected to sum to $7,719.

The proposed regulations would decrease paperwork for the Federal Government by reducing the workload for PMI's and SDR data entry employees as follows:

- Allowing a repair station to file an SDR on behalf of a certificate holder operating under part 121, 125, or 135, hence, reducing dual reporting (saving 385 hours annually for data entry personnel);
- Requiring certificate holders to submit these reports directly to Oklahoma City (saving as much as 3,083 hours annually for PMI's);
- Requiring that an SDR include a unique control number for an occurrence (saving as much as 228 hours annually for data entry personnel); and
- Require certificate holders to report certain additional service difficulties and include new information in the SDR (adding 863 hours annually for data entry personnel).

Accordingly, the FAA estimates that these proposed rules decrease the reporting and paperwork requirements for the government by 2,834 hours annually. The total annual reporting burden costs savings sums to $18,164. These cost figures are based on estimates provided in the FAA's ''Regulatory Analysis.''

The agency solicits public comment on the information collection requirements to (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may submit comments on the information collection requirement by June 1, 1999, and should direct them to the address listed in the **ADDRESSES** section of this document.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. The burden associated with this proposal has been submitted to OMB for review. The FAA will publish a notice in the **Federal Register** notifying the public of the approval numbers and expiration date.

International Compatibility

The FAA has reviewed corresponding International Civil Aviation Organization standards and recommended practices and Joint Aviation Authorities requirements and has identified no differences in these proposed amendments and the foreign regulations.

Regulatory Evaluation Summary

Executive Order 12866 (issued October 4, 1993) established the requirement that each agency shall assess both the costs and benefits of every regulation and propose or adjust a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. In response to this requirement, and in accordance with Department of Transportation policies and procedures, the FAA has estimated the anticipated benefits and costs of this rulemaking action. In addition to a summary of the regulatory evaluation, this section also contains a regulatory flexibility determination required by the 1980 Regulatory Flexibility Act, an international trade impact assessment, and an unfunded mandates determination. (A detailed discussion of costs and benefits is contained in the full evaluation in the docket for this rule.)

In conducting these analyses, the FAA has determined that this proposed rule would generate cost-savings that would exceed any costs, and is not ''significant'' as defined under section 3(f) of Executive Order 12866 and Department of Transportation's (DOT) policies and procedures (44 FR 11034, February 26, 1979). In addition, under the Regulatory Flexibility Determination, the FAA certifies that this proposal would not have a significant impact on a substantial number of small entities. Furthermore, this proposal would not impose restraints on international trade. Finally, the FAA has determined that the proposal would not impose a federal mandate on state, local, or tribal governments, or the private sector of $100 million per year. These analyses, available in the docket, are summarized below.

Cost of Compliance

The FAA has estimated the expected costs and benefits of this regulatory proposal. In this analysis, the FAA estimated costs for a 10-year period, from 1999 through 2008. The present value of this stream was calculated using a discount factor of 7 percent as required by the OMB. All costs in this analysis are in 1996 dollars.

While 17 of the proposed sections would increase costs, the changes in 15 of them would modify existing reporting requirements or add additional reporting requirements for information that has not been collected before or had been collected through voluntary reporting. Accordingly, because there is little or no historical data on the proposed data collection and reporting requirements, the FAA does not know how many extra reports these new requirements would generate. For these proposed sections that lack historical data, the FAA believes that there would be few new reports and that the overall burden would be minimal. However, to provide the public with an estimation of the potential total impact of these sections, the FAA assumed that each of these proposed sections could increase the total number of SDR's processed each year by 1 percent. Over 10 years, these costs sum to $674,300 (net present value, $473,600). The FAA calls for comments on these assumptions, specifically what the extra number of reports and the total impact would be in each of these cases.

Proposed §§ 121.703(e) and 121.704(d) would require 1 year after the effective date of the rule, that part 121 certificate holders submit reports in an electronic form. Electronic reporting would necessitate having a computer and a modem. The software needed to interface with the SDRS runs only on IBM-compatible systems; almost all part 121 certificate holders have such systems.

The costs associated with this section would be for those certificate holders who use non-IBM compatible computers. It would be necessary for them to convert to an IBM-compatible system and for a programmer to install the requisite software. In addition, the software necessary to interface with the SDRS would need to be installed at all locations; the FAA would provide this software at no charge. Total first year costs sum to approximately $7,700 (net present value, $7,200).

Proposed sections §§ 121.703(g), 121.704(f), 125.409(g), 125.410(f), 135.415(g), and 135.416(f) would permit parts 121, 125, and 135 certificate holders to authorize a repair station to submit an SDR on their behalf. Proposed §§ 145.63(e) and 145.79(f) would require that the repair stations provide a copy of the report submitted by the repair

station to the part 121, 125, or 135 certificate holder on whose behalf the report was submitted. These proposed sections would result in increased costs for the repair stations. However, these proposed sections would allow for cost savings by eliminating duplicate reports; repair stations would submit the report for input into the SDRS currently submitted by both repair stations and air carriers.

The elimination of the air carrier operator's duplicate report would not diminish safety. The SDR system is used to spot equipment malfunction trends and to get an overview of airplane mechanical malfunctions by fleet type; they are not intended to give an operational view of what is wrong with an operator's individual airplane. Based on the existing regulations, before an airplane can be put back into service, the air carrier will need to be aware of what was wrong and what corrective actions were taken. Alleviating the air carrier operator of the responsibility of submitting an SDR in this case does not lessen the information the air carrier would have about their aircraft.

There were 2,311 SDR's from repair stations entered into the SDR data base that also were submitted from air carriers in 1996. Each report would need to be sent from the repair station to the air carrier. The FAA assumes in this analysis that all reports are photostated and mailed. Over 10 years, the costs of these reports would be $55,900 (net present value, $39,300).

Total quantifiable costs, over 10 years, sum to $738,000 (net present value, $520,100).

Proposed sections §§ 121.703(d), 125.409(d), and 135.415(d) may reduce the PMI's workload. Currently, all reports go from the certificate holder to the Flight Service District Office (FSDO) where the PMI spends time reviewing the SDR before forwarding it to the SDRS in Oklahoma City. The proposal would require certificate holders and operators to submit these reports directly to Oklahoma City, thus possibly reducing the PMI's workload. The certificate holder or operator would be required to make the SDR data available to the FSDO for examination. Hence, while the PMI could still remain informed, he or she may not have to spend as much time inspecting each report and would not have to forward the material. Over 10 years, this cost savings would be $1.12 million (net present value, $786,000).

Proposed §§ 121.703(e)(13), 121.704(d)(9), 125.409(e)(13), 125.410(d)(9), 135.415(e)(13), and 135.416(d)(9) would add a requirement that an SDR include a unique control number for each occurrence. This proposal would yield cost savings that would come from both the reduction in the number of duplicate reports for the same occurrence in the SDR data base and from the more simplified, methodical method for the FAA and industry to reference an SDR. Traditionally, when a supplemental report was submitted to the SDRS, it was entered as if it were a separate report, thus making it difficult to link to the original report. Using a unique identification number for each occurrence would reduce the total number of reports within the SDRS. The potential cost savings would be based on the reduction in the amount of time spent to find and link these reports within the SDRS. Over 10 years, the cost savings would be $143,800 (net present value, $101,000). The actual cost savings would almost certainly be lower because some certificate holders already are using a control number.

Proposed sections §§ 121.703(g), 125.409(g), and 135.415(g) would reduce dual reporting. When a repair station identifies a failure, malfunction, or defect, this information currently is being reported by both the repair station and the certificate holder or operator. Therefore, information about the same problem may be reported twice to the FAA. The proposed revision is intended to eliminate these duplicate reports. The proposed rule would require that the part 121, 125, or 135 certificate holder or operator receive a copy of the report submitted by the repair station (these costs were covered above).

Cost savings would accrue, for each repair, because one less report would need to be processed. In 1996, 2,311 repair station SDR's were enter into the SDR data base, so this analysis will assume that this number of reports would not have to be processed. Over 10 years, this cost reduction would be $227,300 (net present value, $194,800).

Total cost savings over 10 years sum to $1.54 million (net present value, $1.08 million). Net cost savings would be $802,200 (net present value, $561,600); these savings could be lower (1) if any of the proposed sections the FAA is calling for comment on have higher costs than those assumed; and (2) if the total cost savings from using a unique control number is less (but the FAA does not have the data to determine how much less it may be).

Analysis of Benefits

These proposals would help to eliminate the number of duplicate reports that have been entered into this system. In addition, the increased interval for submitting reports should reduce the number of supplemental reports filed. A more efficient system would preserve and improve the integrity of the data base and allow for better and more complete analyses. Additional specific benefits of these proposals include standardizing reporting procedures among air carriers.

In addition to the above, the proposed regulations would enhance air carrier safety by collecting additional and more timely data that identify mechanical failures, malfunctions, and defects that may be a serious hazard to the operation of an aircraft. The information collected could be used to develop and implement corrective actions to help prevent future occurrences of these failures, malfunctions, and defects.

As noted above, the SDR system is used to identify trends and to provide an overview of product service data. Identifying these trends could help to catch problems early, which could allow AD's to be based on better information. In addition, an SDR will give an operator the ability to use trend information (and knowledge of potential problems) to better plan its maintenance scheduling, a major benefit for airplane operators. In addition, the FAA believes that because of the improved SDR information resulting from these proposed regulations, additional information and equipment malfunction trends could be identified that would lead, over time, to safer airplanes.

Comparison of Costs and Benefits

This proposed rule would result in cost savings. Duplicate reports, as well as duplicate entries in the SDRS, would be reduced. The only costs would include software and hardware costs for the part 121 air carriers and copies of reports from repair stations to certificate holders who would no longer need to file SDR's. These proposed changes are expected to generate net cost savings over 10 years of $802,200 (net present value, $561,600).

In addition to eliminating the number of duplicate reports that have been entered into this system, the proposed regulations would enhance air carrier safety by collecting additional and more timely data that identify mechanical failures, malfunctions, and defects that may be a serious hazard to the operation of an aircraft. This data could be used to identify trends that could help to catch problems early and to better plan its maintenance scheduling. All of this could lead, over time, to safer airplanes.

Based on the proposed rule's cost savings and benefits, the FAA finds this proposed rule to be cost beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rational for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

For this proposed rule, the small entity group is considered to be parts 121, 125, and 135 air carriers (Standard Industrial Classification (SIC) Code 4512) and part 145 repair stations (SIC Codes 4581, 7622, 7629, and 7699). The FAA has identified a total of 98 part 121 air carriers, 2,118 part 125 and part 135 air carriers, and 2,790 part 145 repair stations that would be considered small entities.

These proposed regulations would cost all air carriers $396,400 (net present value, $280,200) and repair stations $64,300 (net present value, $45,100) over the next 10 years. On average, it would cost each air carrier $15 per year and each repair station $1 per year.

The FAA conducted the required review of this proposal and determined that it would not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant impact on a substantial number of small entities. The FAA specifically requests comments from small entities on this certification.

International Trade Impact Analysis

In accordance with the OMB memorandum dated March 1983, Federal agencies engaged in rulemaking activities are required to assess the effects of regulatory changes on international trade. There would be no impact on international trade for the domestic certificate holders and operators affected by this proposed rule. In addition, the impact on both domestic and foreign repair stations would be the same, so there would be no cost advantage to using either. Accordingly, there would be no impact on international trade.

Federalism Implications

The regulations proposed herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995, enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year.

Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any 1 year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This proposed rule does not contain any Federal intergovernmental mandates or private sector mandates.

List of Subjects

14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 125

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 135

Air taxis, Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 145

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR parts 121, 125, 135, and 145 as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

2. Amend § 121.703 by revising the section heading and paragraphs (a), (c), (d), (e), and (f); redesignating paragraph (g) as paragraph (h); revising paragraph (h) and redesignating it as paragraph (i); and adding a new paragraph (g) to read as follows:

§ 121.703 Service difficulty reports (operational).

(a) Each certificate holder shall report the occurrence or detection of each failure, malfunction, or defect concerning—

(1) Any fire and, when monitored by a related fire-warning system, whether the fire-warning system functioned properly;

(2) Any false warning of fire or smoke;

(3) An engine exhaust system that causes damage to the engine, adjacent structure, equipment, or components;

(4) An aircraft component that causes the accumulation or circulation of smoke, vapor, or toxic or noxious fumes;

(5) Any engine flameout or shutdown during flight or ground operations;

(6) A propeller feathering system or ability of the system to control overspeed;

(7) A fuel or fuel-dumping system that affects fuel flow or causes hazardous leakage;

(8) A landing gear extension or retraction, or the opening or closing of landing gear doors during flight;

(9) Any brake system component that results in any detectable loss of brake actuating force when the aircraft is in motion on the ground;

(10) Any aircraft component or system that results in a rejected takeoff after initiation of the takeoff roll or the taking of emergency actions, as defined by the Aircraft Flight Manual or Pilot's Operating Handbook;

(11) Any emergency evacuation system or component including any exit door, passenger emergency evacuation lighting system, or evacuation equipment found to be defective or that fails to perform the intended function during an actual emergency or during training, testing, maintenance, demonstrations, or inadvertent deployments; and

(12) Autothrottle, autoflight, or flight control systems or components of these systems.

* * * * *

(c) In addition to the reports required by paragraph (a) of this section, each certificate holder shall report any other failure, malfunction, or defect in an aircraft, system, component, or powerplant that occurs or is detected at any time if that failure, malfunction, or defect has endangered or may endanger the safe operation of an aircraft.

(d) Each certificate holder shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to a centralized collection point as specified by the Administrator. Each report of occurrences during a 24-hour period shall be submitted to the FAA within the next 96 hours. However, a report due on Saturday or Sunday may be submitted on the following Monday, and a report due on a holiday may be submitted on the next work day. Each certificate holder also shall make the report data available for 30 days for examination by the certificate-holding district office in a form and manner acceptable to the Administrator.

(e) The certificate holder shall submit the reports required by this section in an electronic or other form acceptable to the Administrator. After [*1 year from the effective date of the rule*], the certificate holder shall submit the reports required by this section in an electronic form acceptable to the Administrator. The reports shall include the following information:

(1) The manufacturer, model, and serial number of the aircraft, engine, or propeller;

(2) The registration number of the aircraft;

(3) The operator designator;

(4) The date on which the failure, malfunction, or defect was discovered;

(5) The stage of flight or ground operation during which the failure, malfunction, or defect was discovered;

(6) The nature of the failure, malfunction, or defect;

(7) The applicable Joint Aircraft System/Component Code;

(8) The total cycles, if applicable, and total time of the aircraft, aircraft engine, propeller, or component;

(9) The manufacturer, manufacturer part number, part name, serial number, and location of the component that failed, malfunctioned, or was defective, if applicable;

(10) The manufacturer, manufacturer part number, part name, serial number, and location of the part that failed, malfunctioned, or was defective, if applicable;

(11) The precautionary or emergency action taken;

(12) Other information necessary for a more complete analysis of the cause of the failure, malfunction, or defect, including available information pertaining to type designation of the major component and the time since the last maintenance overhaul, repair, or inspection; and

(13) A unique control number for the occurrence, in a form acceptable to the Administrator.

(f) A certificate holder that also is the holder of a Type Certificate (including a Supplemental Type Certificate), a Parts Manufacturer Approval, or a Technical Standard Order authorization, or that is a licensee of a Type Certificate holder, need not report a failure, malfunction, or defect under this section if the failure, malfunction, or defect has been reported by that certificate holder under § 21.3 of this chapter or under the accident reporting provisions of 49 CFR part 830.

(g) A report required by this section may be submitted by a certificated repair station when the reporting task has been assigned to that repair station by a part 121 certificate holder. However, the part 121 certificate holder remains primarily responsible for ensuring compliance with the provisions of this section. The part 121 certificate holder shall receive a copy of each report submitted by the repair station.

(h) No person may withhold a report required by this section although all information required by this section is not available.

(i) When a certificate holder gets additional information concerning a report required by this section, the certificate holder shall expeditiously submit that information as a supplement to the original report and use the unique control number from the original report.

3. Add § 121.704 to read as follows:

§ 121.704 Service difficulty reports (structural).

(a) Each certificate holder shall report the occurrence or detection of each failure or defect related to—

(1) Corrosion, cracks, or disbonding that requires replacement of the affected part;

(2) Corrosion, cracks, or disbonding that requires rework or blendout because the corrosion, cracks, or disbonding exceeds the manufacturer's established allowable damage limits;

(3) Cracks, fractures, or disbonding in a composite structure that the equipment manufacturer has designated as a primary structure or a principal structural element; or

(4) Failures or defects repaired in accordance with approved data not contained in the manufacturer's maintenance manual.

(b) In addition to the reports required by paragraph (a) of this section, each certificate holder shall report any other failure or defect in aircraft structure that occurs or is detected at any time if that failure or defect has endangered or may endanger the safe operation of an aircraft.

(c) Each certificate holder shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to a centralized collection point as specified by the Administrator. Each report of occurrences during a 24-hour period shall be submitted to the FAA within the next 96 hours. However, a report due on Saturday or Sunday may be submitted on the following Monday, and a report due on a holiday may be submitted on the next work day. Each certificate holder also shall make the report data available for 30 days for examination by the certificate-holding district office in a form and manner acceptable to the Administrator.

(d) The certificate holder shall submit the reports required by this section in an electronic or other form acceptable to the Administrator. After [*1 year from the*

effective date of the rule], the certificate holder shall submit the reports required by this section in an electronic form acceptable to the Administrator. The reports shall include the following information:

(1) The manufacturer, model, serial number, and registration number of the aircraft;

(2) The operator designator;

(3) The date on which the failure or defect was discovered;

(4) The stage of ground operation during which the failure or defect was discovered;

(5) The part name, part condition, and location of the failure or defect;

(6) The applicable Joint Aircraft System/Component Code;

(7) The total cycles, if applicable, and total time of the aircraft;

(8) Other information necessary for a more complete analysis of the cause of the failure or defect, including corrosion classification, if applicable, or crack length and available information pertaining to type designation of the major component and the time since the last maintenance overhaul, repair, or inspection; and

(9) A unique control number for the occurrence, in a form acceptable to the Administrator.

(e) A certificate holder that also is the holder of a Type Certificate (including a Supplemental Type Certificate), a Parts Manufacturer Approval, or a Technical Standard Order authorization, or that is a licensee of a Type Certificate holder, need not report a failure or defect under this section if the failure or defect has been reported by that certificate holder under § 21.3 of this chapter or under the accident reporting provisions of 49 CFR part 830.

(f) A report required by this section may be submitted by a certificated repair station when the reporting task has been assigned to that repair station by the part 121 certificate holder. However, the part 121 certificate holder remains primarily responsible for ensuring compliance with the provisions of this section. The part 121 certificate holder shall receive a copy of each report submitted by the repair station.

(g) No person may withhold a report required by this section although all information required by this section is not available.

(h) When a certificate holder gets additional information concerning a report required by this section, the certificate holder shall expeditiously submit that information as a supplement to the original report and use the unique control number from the original report.

4. Revise § 121.705 to read as follows:

§ 121.705 Mechanical interruption summary report.

Each certificate holder shall submit to the Administrator, before the end of the 10th day of the following month, a summary report for the previous month of each interruption to a flight, unscheduled change of aircraft en route, unscheduled stop or diversion from a route, or unscheduled engine removal caused by known or suspected mechanical difficulties or malfunctions that are not required to be reported under § 121.703 or § 121.704 of this part.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

5. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

6. Revise § 125.409 to read as follows:

§ 125.409 Service difficulty reports (operational).

(a) Each certificate holder shall report the occurrence or detection of each failure, malfunction, or defect concerning—

(1) Any fire and, when monitored by a related fire-warning system, whether the fire-warning system functioned properly;

(2) Any false warning of fire or smoke;

(3) An engine exhaust system that causes damage to the engine, adjacent structure, equipment, or components;

(4) An aircraft component that causes the accumulation or circulation of smoke, vapor, or toxic or noxious fumes;

(5) Any engine flameout or shutdown during flight or ground operations;

(6) A propeller feathering system or ability of the system to control overspeed;

(7) A fuel or fuel-dumping system that affects fuel flow or causes hazardous leakage;

(8) A landing gear extension or retraction, or the opening or closing of landing gear doors during flight;

(9) Any brake system component that results in any detectable loss of brake actuating force when the aircraft is in motion on the ground;

(10) Any aircraft component or system that results in a rejected takeoff after initiation of the takeoff roll or the taking of emergency actions, as defined by the Aircraft Flight Manual or Pilot's Operating Handbook;

(11) Any emergency evacuation system or component including any exit door, passenger emergency evacuation lighting system, or evacuation equipment found to be defective or that fails to perform the intended function during an actual emergency or during training, testing, maintenance, demonstrations, or inadvertent deployments; and

(12) Autothrottle, autoflight, or flight control systems or components of these systems.

(b) For the purposes of this section, *during flight* means the period from the moment the aircraft leaves the surface of the earth on takeoff until it touches down on landing.

(c) In addition to the reports required by paragraph (a) of this section, each certificate holder shall report any other failure, malfunction, or defect in an aircraft, system, component, or powerplant that occurs or is detected at any time if that failure, malfunction, or defect has endangered or may endanger the safe operation of an aircraft.

(d) Each certificate holder shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to a centralized collection point as specified by the Administrator. Each report of occurrences during a 24-hour period shall be submitted to the FAA within the next 96 hours. However, a report due on Saturday or Sunday may be submitted on the following Monday, and a report due on a holiday may be submitted on the next work day. For aircraft operating in areas where mail is not collected, reports may be submitted within 24 hours after the aircraft returns to a point where the mail is collected. Each certificate holder also shall make the report data available for 30 days for examination by the certificate-holding district office in a form and manner acceptable to the Administrator.

(e) The certificate holder shall submit the reports required by this section in an electronic or other form acceptable to the Administrator. The reports shall include the following information:

(1) The manufacturer, model, and serial number of the aircraft, engine, or propeller;

(2) The registration number of the aircraft;

(3) The operator designator;

(4) The date on which the failure, malfunction, or defect was discovered;

(5) The stage of flight or ground operation during which the failure, malfunction, or defect was discovered;

(6) The nature of the failure, malfunction, or defect;

(7) The applicable Joint Aircraft System/Component Code;

(8) The total cycles, if applicable, and total time of the aircraft, aircraft engine, propeller, or component;

(9) The manufacturer, manufacturer part number, part name, serial number, and location of the component that failed, malfunctioned, or was defective, if applicable;

(10) The manufacturer, manufacturer part number, part name, serial number, and location of the part that failed, malfunctioned, or was defective, if applicable;

(11) The precautionary or emergency action taken;

(12) Other information necessary for a more complete analysis of the cause of the failure, malfunction, or defect, including available information pertaining to type designation of the major component and the time since the last maintenance overhaul, repair, or inspection; and

(13) A unique control number for the occurrence, in a form acceptable to the Administrator.

(f) A certificate holder that also is the holder of a Type Certificate (including a Supplemental Type Certificate), a Parts Manufacturer Approval, or a Technical Standard Order authorization, or that is a licensee of a Type Certificate holder, need not report a failure, malfunction, or defect under this section if the failure, malfunction, or defect has been reported by that certificate holder under § 21.3 of this chapter or under the accident reporting provisions of 49 CFR part 830.

(g) A report required by this section may be submitted by a certificated repair station when the reporting task has been assigned to that repair station by a part 125 certificate holder. However, the part 125 certificate holder remains primarily responsible for ensuring compliance with the provisions of this section. The part 125 certificate holder shall receive a copy of each report submitted by the repair station.

(h) No person may withhold a report required by this section although all information required by this section is not available.

(i) When a certificate holder gets additional information concerning a report required by this section, the certificate holder shall expeditiously submit that information as a supplement to the original report and use the unique control number from the original report.

7. Add § 125.410 to read as follows:

§ 125.410 Service difficulty reports (structural).

(a) Each certificate holder shall report the occurrence or detection of each failure or defect related to—

(1) Corrosion, cracks, or disbonding that requires replacement of the affected part;

(2) Corrosion, cracks, or disbonding that requires rework or blendout because the corrosion, cracks, or disbonding exceeds the manufacturer's established allowable damage limits;

(3) Cracks, fractures, or disbonding in a composite structure that the equipment manufacturer has designated as a primary structure or a principal structural element; or

(4) Failures or defects repaired in accordance with approved data not contained in the manufacturer's maintenance manual.

(b) In addition to the reports required by paragraph (a) of this section, each certificate holder shall report any other failure or defect in aircraft structure that occurs or is detected at any time if that failure or defect has endangered or may endanger the safe operation of an aircraft.

(c) Each certificate holder shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to a centralized collection point as specified by the Administrator. Each report of occurrences during a 24-hour period shall be submitted to the FAA within the next 96 hours. However, a report due on Saturday or Sunday may be submitted on the following Monday, and a report due on a holiday may be submitted on the next work day. For aircraft operating in areas where mail is not collected, reports may be submitted within 24 hours after the aircraft returns to a point where the mail is collected. Each certificate holder also shall make the report data available for 30 days for examination by the certificate-holding district office in a form and manner acceptable to the Administrator.

(d) The certificate holder shall submit the reports required by this section in an electronic or other form acceptable to the Administrator. The reports shall include the following information:

(1) The manufacturer, model, serial number, and registration number of the aircraft;

(2) The operator designator;

(3) The date on which the failure or defect was discovered;

(4) The stage of ground operation during which the failure or defect was discovered;

(5) The part name, part condition, and location of the failure or defect;

(6) The applicable Joint Aircraft System/Component Code;

(7) The total cycles, if applicable, and total time of the aircraft;

(8) Other information necessary for a more complete analysis of the cause of the failure or defect, including corrosion classification, if applicable, or crack length and available information pertaining to type designation of the major component and the time since the last maintenance overhaul, repair, or inspection; and

(9) A unique control number for the occurrence, in a form acceptable to the Administrator.

(e) A certificate holder that also is the holder of a Type Certificate (including a Supplemental Type Certificate), a Parts Manufacturer Approval, or a Technical Standard Order authorization, or that is a licensee of a Type Certificate holder, need not report a failure or defect under this section if the failure or defect has been reported by that certificate holder under § 21.3 of this chapter or under the accident reporting provisions of 49 CFR part 830.

(f) A report required by this section may be submitted by a certificated repair station when the reporting task has been assigned to that repair station by the part 125 certificate holder. However, the part 125 certificate holder remains primarily responsible for ensuring compliance with the provisions of this section. The part 125 certificate holder shall receive a copy of each report submitted by the repair station.

(g) No person may withhold a report required by this section although all information required by this section is not available.

(h) When a certificate holder gets additional information concerning a report required by this section, the certificate holder shall expeditiously submit that information as a supplement to the original report and use the unique control number from the original report.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

8. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

9. Amend § 135.415 by revising the section heading and paragraphs (a), (c), (d), (e), and (f); redesignating paragraph (g) as paragraph (h); revising paragraph (h) and redesignating it as paragraph (i); and adding a new paragraph (g) to read as follows:

§ 135.415 Service difficulty reports (operational).

(a) Each certificate holder shall report the occurrence or detection of each

failure, malfunction, or defect concerning—

(1) Any fire and, when monitored by a related fire-warning system, whether the fire-warning system functioned properly;

(2) Any false warning of fire or smoke;

(3) An engine exhaust system that causes damage to the engine, adjacent structure, equipment, or components;

(4) An aircraft component that causes the accumulation or circulation of smoke, vapor, or toxic or noxious fumes;

(5) Any engine flameout or shutdown during flight or ground operations;

(6) A propeller feathering system or ability of the system to control overspeed;

(7) A fuel or fuel-dumping system that affects fuel flow or causes hazardous leakage;

(8) A landing gear extension or retraction, or the opening or closing of landing gear doors during flight;

(9) Any brake system component that results in any detectable loss of brake actuating force when the aircraft is in motion on the ground;

(10) Any aircraft component or system that results in a rejected takeoff after initiation of the takeoff roll or the taking of emergency action, as defined by the Aircraft Flight Manual or Pilot's Operating Handbook;

(11) Any emergency evacuation system or component including any exit door, passenger emergency evacuation lighting system, or evacuation equipment found to be defective, or that fails to perform the intended function during an actual emergency or during training, testing, maintenance, demonstrations, or inadvertent deployments; and

(12) Autothrottle, autoflight, or flight control systems or components of these systems.

* * * * *

(c) In addition to the reports required by paragraph (a) of this section, each certificate holder shall report any other failure, malfunction, or defect in an aircraft, system, component, or powerplant that occurs or is detected at any time if that failure, malfunction, or defect has endangered or may endanger the safe operation of an aircraft.

(d) Each certificate holder shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to a centralized collection point as specified by the Administrator. Each report of occurrences during a 24-hour period shall be submitted to the FAA within the next 96 hours. However, a report due on Saturday or Sunday may be submitted on the following Monday, and a report due on a holiday may be submitted on the next work day. For aircraft operating in areas where mail is not collected, reports may be submitted within 24 hours after the aircraft returns to a point where the mail is collected. Each certificate holder also shall make the report data available for 30 days for examination by the certificate-holding district office in a form and manner acceptable to the Administrator.

(e) The certificate holder shall submit the reports required by this section in an electronic or other form acceptable to the Administrator. The reports shall include the following information:

(1) The manufacturer, model, and serial number of the aircraft, engine, or propeller;

(2) The registration number of the aircraft;

(3) The operator designator;

(4) The date on which the failure, malfunction, or defect was discovered;

(5) The stage of flight or ground operation during which the failure, malfunction, or defect was discovered;

(6) The nature of the failure, malfunction, or defect;

(7) The applicable Joint Aircraft System/Component Code;

(8) The total cycles, if applicable, and total time of the aircraft, aircraft engine, propeller, or component;

(9) The manufacturer, manufacturer part number, part name, serial number, and location of the component that failed, malfunctioned, or was defective, if applicable;

(10) The manufacturer, manufacturer part number, part name, serial number, and location of the part that failed, malfunctioned, or was defective, if applicable;

(11) The precautionary or emergency action taken;

(12) Other information necessary for more complete analysis of the cause of the failure, malfunction, or defect, including available information pertaining to type designation of the major component and the time since the last maintenance overhaul, repair, or inspection; and

(13) A unique control number for the occurrence, in a form acceptable to the Administrator.

(f) A certificate holder that also is the holder of a Type Certificate (including a Supplemental Type Certificate), a Parts Manufacturer Approval, or a Technical Standard Order authorization, or that is a licensee of a Type Certificate holder, need not report a failure, malfunction, or defect under this section if the failure, malfunction, or defect has been reported by that certificate holder under § 21.3 of this chapter or under the accident reporting provisions of 49 CFR part 830.

(g) A report required by this section may be submitted by a certificated repair station when the reporting task has been assigned to that repair station by a part 135 certificate holder. However, the part 135 certificate holder remains primarily responsible for ensuring compliance with the provisions of this section. The part 135 certificate holder shall receive a copy of each report submitted by the repair station.

(h) No person may withhold a report required by this section although all information required by this section is not available.

(i) When a certificate holder gets additional information concerning a report required by this section, the certificate holder shall expeditiously submit that information as a supplement to the original report and use the unique control number from the original report.

10. Add § 135.416 to read as follows:

§ 135.416 Service difficulty reports (structural).

(a) Each certificate holder shall report the occurrence or detection of each failure or defect related to—

(1) Corrosion, cracks, or disbonding that requires replacement of the affected part;

(2) Corrosion, cracks, or disbonding that requires rework or blendout because the corrosion, cracks, or disbonding exceeds the manufacturer's established allowable damage limits;

(3) Cracks, fractures, or disbonding in a composite structure that the equipment manufacturer has designated as a primary structure or a principal structural element; or

(4) Failures or defects repaired in accordance with approved data not contained in the manufacturer's maintenance manual.

(b) In addition to the reports required by paragraph (a) of this section, each certificate holder shall report any other failure or defect in aircraft structure that occurs or is detected at any time if that failure or defect has endangered or may endanger the safe operation of an aircraft.

(c) Each certificate holder shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to a centralized collection point as specified by the Administrator. Each report of occurrences during a 24-hour period shall be submitted to the FAA within the next 96 hours. However, a report due on Saturday or

Sunday may be submitted on the following Monday, and a report due on a holiday may be submitted on the next work day. For aircraft operating in areas where mail is not collected, reports may be submitted within 24 hours after the aircraft returns to a point where the mail is collected. Each certificate holder also shall make the report data available for 30 days for examination by the certificate-holding district office in a form and manner acceptable to the Administrator.

(d) The certificate holder shall submit the reports required by this section in an electronic or other form acceptable to the Administrator. The reports shall include the following information:

(1) The manufacturer, model, serial number, and registration number of the aircraft;

(2) The operator designator;

(3) The date on which the failure or defect was discovered;

(4) The stage of ground operation during which the failure or defect was discovered;

(5) The part name, part condition, and location of the failure or defect;

(6) The applicable Joint Aircraft System/Component Code;

(7) The total cycles, if applicable, and total time of the aircraft;

(8) Other information necessary for a more complete analysis of the cause of the failure or defect, including corrosion classification, if applicable, or crack length and available information pertaining to type designation of the major component and the time since the last maintenance overhaul, repair, or inspection; and

(9) A unique control number for the occurrence, in a form acceptable to the Administrator.

(e) A certificate holder that also is the holder of a Type Certificate (including a Supplemental Type Certificate), a Parts Manufacturer Approval, or a Technical Standard Order authorization, or that is a licensee of a Type Certificate holder, need not report a failure or defect under this section if the failure or defect has been reported by that certificate holder under § 21.3 of this chapter or under the accident reporting provisions of 49 CFR part 830.

(f) A report required by this section may be submitted by a certificated repair station when the reporting task has been assigned to that repair station by the part 135 certificate holder. However, the part 135 certificate holder remains primarily responsible for ensuring compliance with the provisions of this section. The part 135 certificate holder shall receive a copy of each report submitted by the repair station.

(g) No person may withhold a report required by this section although all information required by this section is not available.

(h) When a certificate holder gets additional information concerning a report required by this section, the certificate holder shall expeditiously submit that information as a supplement to the original report and use the unique control number from the original report.

11. Revise § 135.417 to read as follows:

§ 135.417 Mechanical interruption summary report.

Each certificate holder shall submit to the Administrator, before the end of the 10th day of the following month, a summary report for the previous month of each interruption to a flight, unscheduled change of aircraft en route, unscheduled stop or diversion from a route, or unscheduled engine removal caused by known or suspected mechanical difficulties or malfunctions that are not required to be reported under § 135.415 or § 135.416 of this part.

PART 145—REPAIR STATIONS

12. The authority citation for part 145 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44707, 44717.

13. Amend § 145.63 by revising paragraphs (a) and (c) and adding paragraphs (d) and (e) to read as follows:

§ 145.63 Reports of defects or unairworthy conditions.

(a) Each certificated domestic repair station shall, within 96 hours after it discovers any serious defect in, or other recurring unairworthy condition of, an aircraft, powerplant, or propeller, or any component of any of them, submit a report to a central collection point as specified by the Administrator. The report shall be made in a form and in a manner acceptable to the Administrator, describing the defect or unairworthy condition completely without withholding any pertinent information.

* * * * *

(c) The holder of a domestic repair station certificate that also is the holder of a part 121, part 125, or part 135 certificate, a Type Certificate (including a Supplemental Type Certificate), a Parts Manufacturer Approval, or a Technical Standard Order Authorization, or that is the licensee of a Type Certificate holder, need not report a failure, malfunction, or defect under this section if the failure, malfunction, or defect has been reported by it under § 21.3, § 121.703, § 121.704, § 125.409, § 125.410, § 135.415, or § 135.416 of this chapter.

(d) A certificated domestic repair station may submit a Service Difficulty Report (operational or structural) for—

(1) A part 121 certificate holder under § 121.703(g) or § 121.704(f) provided that the report meets the requirements of §§ 121.703(d) and 121.703(e), or §§ 121.704(c) and 121.704(d) of this chapter, as appropriate;

(2) A part 125 certificate holder under § 125.409(g) or § 125.410(f) provided that the report meets the requirements of §§ 125.409(d) and 125.409(e), or §§ 125.410(c) and 125.410(d) of this chapter, as appropriate;

(3) A part 135 certificate holder under § 135.415(g) or § 135.416(f) provided that the report meets the requirements of §§ 135.415(d) and 135.415(e), or §§ 135.416(c) and 135.416(d) of this chapter, as appropriate.

(e) A certificated domestic repair station authorized to report a failure, malfunction, or defect under paragraph (d) of this section shall not report the same failure, malfunction, or defect under paragraph (a) of this section. A copy of the report submitted under paragraph (d) of this section shall be forwarded to the certificate holder.

14. Amend § 145.79 by revising paragraphs (c) and (d) and adding paragraphs (e) and (f) to read as follows:

§ 145.79 Records and reports.

* * * * *

(c) Each certificated foreign repair station shall, within 96 hours after it discovers any serious defect in, or other recurring unairworthy condition of, any aircraft, powerplant, propeller, or any component of any of them, submit a report to a central collection point as specified by the Administrator. The report shall be made in a form and in a manner acceptable to the Administrator, describing the defect or unairworthy condition completely without withholding any pertinent information.

(d) The holder of a foreign repair station certificate that also is the holder of a Type Certificate (including a Supplemental Type Certificate), a Parts Manufacturer Approval, or a Technical Standard Order Authorization or that is the licensee of a Type Certificate holder need not report a failure, malfunction, or defect under this section if the failure, malfunction, or defect has been reported by it under § 21.3 of this chapter.

(e) A certificated foreign repair station may submit a Service Difficulty Report (operational or structural) for—

(1) A part 121 certificate holder under § 121.703(g) or § 121.704(f) provided that the report meets the requirements of §§ 121.703(d) and 121.703(e) or §§ 121.704(c) and 121.704(d) of this chapter, as appropriate;

(2) A part 125 certificate holder under § 125.409(g) or § 125.410(f) provided that the report meets the requirements of §§ 125.409(d) and 125.409(e) or §§ 125.410(c) and 125.410(d) of this chapter, as appropriate;

(3) A part 135 certificate holder under § 135.415(g) or § 135.416(f) provided that the report meets the requirements of §§ 135.415(d) and 135.415(e) or §§ 135.416(c) and 135.416(d) of this chapter, as appropriate.

(f) A certificated foreign repair station authorized to report a failure, malfunction, or defect under paragraph (e) of this section shall not report the same failure, malfunction, or defect under paragraph (c) of this section. A copy of the report submitted under paragraph (e) of this section shall be forwarded to the certificate holder.

Issued in Washington, D.C., on April 7, 1999.

Nicholas L. Lacey,

Director, Flight Standards Service.

[FR Doc. 99–9299 Filed 4–14–99; 8:45 am]

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Federal Register

Thursday
April 15, 1999

Part IV

Department of Transportation

Research and Special Programs Administration

49 CFR Part 107

Hazardous Materials Transportation; Registration and Fee Assessment Program; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107

[Docket No. RSPA–99–5137 (HM–208C)]

RIN 2137–AD17

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: RSPA is proposing changes to the current registration and fee assessment program for persons who transport or offer for transportation certain categories and quantities of hazardous materials. The proposed changes would increase the number of persons required to register and increase the annual registration fee for shippers and carriers who are not a small business under Small Business Administration criteria. The proposed changes are intended to raise additional funds to enhance support for the national Hazardous Materials Emergency Preparedness Grants Program.

DATES: *Written Comments:* Comments must be received on or before June 14, 1999.

Public Meeting Date: A public meeting will be held on May 25, 1999; from 9:00 a.m. to 4:00 p.m. An additional meeting may be scheduled if there is substantial interest.

ADDRESSES: *Written Comments:* Address comments to the Dockets Unit, U.S. Department of Transportation, Room PL 401, 400 Seventh St., SW, Washington, DC 20590–0001. Comments should identify the docket number RSPA–99–5137 (HM–208C) and should be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. Comments may also be submitted by e-mail to: http://dms.dot.gov, or by fax to (202) 366–3753. The Dockets Unit is located on the Plaza Level of the Nassif Building at the U.S. Department of Transportation at the above address.

Public dockets may be viewed between the hours of 10:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. Internet users may access all comments and related background materials by using the Universal Resource Locator (URL) http://dms.dot.gov. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661.

Public Meeting: The public meeting will be held in room 3200–3204 at the U.S. Department of Transportation's Nassif building, 400 Seventh Street SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. David Donaldson, Office of Hazardous Materials Planning and Analysis, (202) 366–4484, or Ms. Jodi George, Office of Hazardous Materials Standards, (202) 366–8553, RSPA, Department of Transportation, 400 Seventh Street SW, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

A. Current Registration Program

In 1990, amendments to Federal hazardous materials transportation law, now codified at 49 U.S.C. 5101 et seq. (the law), required the Secretary of Transportation to establish a registration program. The Secretary delegated this authority to the Administrator, Research and Special Programs Administration (RSPA). 49 CFR 1.53(b)(1). The purpose of the registration program is to gather information about the transportation of hazardous materials and to fund a grants program to support hazardous materials emergency response planning and training activities by State and local governments. Under 49 U.S.C. 5108, each person who transports or causes to be transported in commerce one or more of the categories of hazardous materials listed below must file a registration statement with RSPA and pay an annual registration fee:

(1) A highway-route controlled quantity of Class 7 (radioactive) materials;

(2) More than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container;

(3) A package containing more than one liter (1.06 quarts) of a hazardous material the Secretary designates as extremely toxic by inhalation, which has been identified as a material meeting a criterion of a Zone A material that is toxic by inhalation;

(4) A hazardous material in a bulk packaging, container, or tank if the packaging, container, or tank has a capacity equal to or greater than 13,248 liters (3,500 gallons) or more than 13.24 cubic meters (468 cubic feet); or

(5) A shipment in other than a bulk packaging of 2,268 kilograms (5,000 pounds) or more of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required.

In addition, 49 U.S.C. 5108(a)(2) permits RSPA to require registration by each person who:

(1) Transports or causes to be transported hazardous material in commerce but does not engage in the activities listed above; or

(2) Manufactures, fabricates, marks, maintains, reconditions, repairs, or tests packagings that the person represents, marks, certifies, or sells for use in transporting in commerce hazardous materials.

Section 5108(g) allows RSPA to set the registration fee at an amount between $250 and $5,000, based on one or more of the following factors:

(1) The gross revenues from the transportation of hazardous materials;

(2) The types of hazardous materials transported or caused to be transported;

(3) The quantities of hazardous materials transported or caused to be transported;

(4) The number of shipments of hazardous materials;

(5) The number of activities which a person carries out for which filing a registration statement is required;

(6) The threat to property, individuals, and the environment from an accident or incident involving the hazardous materials transported or caused to be transported;

(7) The percentage of gross revenues which are derived from the transport of hazardous materials;

(8) The amount of funds which are made available to carry out the emergency response planning and training grants program; and

(9) Such other factors RSPA considers appropriate.

Section 5108(i)(2) specifically excepts the following persons from the registration requirements:

(1) A department, agency, or instrumentality of the United States Government;

(2) An authority of a State or political subdivision of a State;

(3) An employee of a department, agency, instrumentality, or authority carrying out official duties; and

(4) An employee of a hazmat employer, which for the purposes of registration includes the owner-operator of a motor vehicle that transports in commerce hazardous materials, if that vehicle at the time of those activities, leased to a registered motor carrier under a 30-day or longer lease as prescribed in 49 CFR part 376 or an equivalent contractual agreement.

Section 5108(a)(4) permits RSPA to waive the registration requirements for

a person not domiciled in the United States that solely offers hazardous materials for transportation in commerce to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer. In 1995, this exception for foreign offerors was incorporated into the regulations at 49 CFR 107.606(a)(6).

In establishing the registration program, RSPA chose to require registration by only those persons under a statutory obligation to register and to impose the minimum $250 fee on those persons, plus an additional fee, currently set at $50, to pay for the costs of processing the registration statements, as authorized by 49 U.S.C. 5108(g). All registrants pay the same registration fee, regardless of their size, their income, or the extent to which they engage in hazardous materials transportation activities.

The current regulations, in § 107.608(a), require the annual submission of a registration statement. Section 107.620 requires each registrant to maintain a copy of its registration statement and the certificate of registration issued by RSPA at its principal place of business for three years. In addition, each highway carrier and vessel operator is required to keep a copy of the current registration certificate or another document bearing the registration number on board each vehicle or vessel carrying the types and quantities of hazardous materials that require registration.

In each of the seven years since 1992, when offerors and transporters were first required to register, RSPA has received approximately 27,000 registration statements and an average of $6.9 million to support the HMEP Grants Program.

B. Hazardous Materials Emergency Preparedness (HMEP) Grants Program

1. Purpose and Achievements of the HMEP Grants Program

The HMEP Grants Program, as mandated by the law, establishes a role for the Federal government in providing financial and technical assistance, national direction, and guidance to enhance State, local, and tribal hazardous materials emergency planning and training. The HMEP Grants Program is designed to build upon existing programs and to support the working relationships within the National Response System and the Emergency Planning and Community Right-To-Know Act of 1986 (Title III). 42 U.S.C. 11001 *et seq.* The grants are used to develop, improve, and implement emergency plans, to train public sector hazardous materials emergency response employees to respond to accidents and incidents involving hazardous materials, to determine flow patterns of hazardous materials within a State and between States, and to determine the need within a State for regional hazardous materials emergency response teams.

The grants program was designed to encourage the growth of hazardous materials planning and training programs of State, local and tribal governments. To ensure this growth, Sections 5116(a)(2)(A) and 5116(b)(2)(A) of the law require a State or Native American tribe applying for grants to certify that the amount it expends on hazardous materials planning and training, not counting Federal funds, will at least equal the average amount spent for these purposes during the last two fiscal years. The HMEP grants therefore represent additional funds that supplement the amount already being provided by the State or tribe. To further encourage growth in planning and training funds, Section 5116(e) limits the Federal share of the costs of the additional activity for which the grants are made to 80 percent, thus requiring the State or tribe to provide 20 percent of these additional costs. By accepting an HMEP grant, the State or tribe commits itself not only to maintaining its previous level of support, but increasing that level by an amount representing 20 percent of the funds newly expended on grant-supported activities each year. For example, an HMEP grant of $100,000 requires an additional commitment of $25,000 in State or tribal funds over the average amount expended by the agency during the previous two years. These additional State or tribal funds may be provided in the form of direct fiscal support or through the provision of in-kind resources.

Effective responses to hazardous materials incidents depend on the extent and quality of planning and training. Generally, a State Emergency Response Commission (SERC) coordinates the activities of the Local Emergency Planning Committees (LEPCs). The nation's more than 3,000 LEPCs prepare and, in the case of an emergency, implement emergency plans that delineate how responders coordinate activities at the scene of an incident. Emergency plans include: (1) commodity flow studies to determine the materials most likely to create an emergency; (2) exercise plans to test the effectiveness of emergency response; and (3) training requirements for responders. RSPA awards grants to agencies designated by a State or territorial Governor or tribal leader. These agencies are primarily emergency response and environmental protection agencies and Native American tribal governments. The designated agency distributes funds within the State, territory, or Native American tribe in accordance with HMEP grant rules and required certifications. Each grant is made in two portions. Under 49 U.S.C. 5116(a), the first portion of grant funds is awarded for developing, improving, and implementing emergency plans under Title III; conducting commodity flow studies; and determining the need for regional hazardous materials response teams. In each year, RSPA allocates approximately 40 percent of the grant funds for emergency preparedness planning purposes.

The second portion of the grant is designated for training. RSPA allocates approximately 60 percent of the grant funds for emergency preparedness training purposes. This portion is used to train public sector employees to respond safely and efficiently to accidents and incidents involving hazardous materials. The people trained include paid and volunteer firefighters, police, and emergency medical service providers. The designated agencies distribute the major portion of the grants to local emergency response organizations. This system promotes representation of many interests within a State or territory.

The States are also required by Section 5116(a)(2)(B) to pass at least 75 percent of the planning grant amount to LEPC's to develop emergency plans, and by Section 5116(b)(2)(C) to make available at least 75 percent of the training grant amount for training public sector employees employed or used by a political subdivision of the State. These provisions ensure that funds are provided to the local emergency response teams for planning purposes, and that training is provided to first responders.

Since 1993, all States and territories and 35 Native American tribes have been awarded planning and training grants totaling $38.6 million. These grants, which were supplemented by funds from States, tribes, and local agencies, were used to:

- Train 576,000 hazardous materials responders;
- Conduct 1,825 commodity flow studies;

- Write or update more than 1,000 emergency plans during the first grant period, 1,200 in the second, 4,475 in the third, and 5,775 in the fourth;
- Conduct 2,850 emergency response exercises; and
- Assist 1,200 LEPCs during the first year, 2,225 in the second, 2,150 in the third, and 1,900 in the fourth.

In addition, over the past six years, HMEP Grants Program funds have been used to support the following related activities in the total amounts indicated:

- $2.1 million for development and periodic updating of a national curriculum of courses necessary to train public sector emergency response and preparedness teams. The curriculum guidelines, developed by a committee of Federal, State, and local experts, include criteria for establishing training programs for emergency responders at five progressively more skilled levels: first responder awareness, first responder operations, hazardous materials technician, hazardous materials specialist, and on-scene commander. To date, there have been three major and many minor updates to the curriculum guidelines. The guidelines are used to qualify courses for inclusion in the list. In this way, a national list of courses is generated in full partnership with the States and other interested parties. In addition, RSPA used some of the registration fees to distribute more than 16,000 copies of the HMEP interagency-developed curriculum guidelines to grantees, LEPCs, SERCs, and local fire departments. A small portion of the funds is used for coordination with other Federal agencies through the National Response Team Training/ Curriculum Sub-Committee, chaired by RSPA. The guidelines are available from the Federal Emergency Management Agency (FEMA) via its internet web site at http://www.fema.gov/emi/hmep or by calling FEMA at 301–447–1009.
- $1.7 million to monitor public sector emergency response planning and training for an accident or incident involving hazardous materials, and to provide technical assistance to a State or Native American tribe for carrying out emergency response training and planning for an accident or incident involving hazardous materials.
- $3.3 million for periodic updating and distribution of the North American Emergency Response Guidebook.
- $0.5 million for supplemental grants to the International Association of Fire Fighters (IAFF) to train instructors to conduct hazardous materials response training programs.
- $2.0 million for administrative costs of carrying out the HMEP Grants Program.

The HMEP Grants Program has allowed RSPA to support a wide array of emergency preparedness planning and training activities of States and Native American tribes, thereby enabling them to better respond to numerous hazardous-materials-related emergencies. The experiences of emergency response personnel in actual emergency situations during the last six years demonstrate the effectiveness of the grants program. A few representative examples attest to the benefits of this program:

- On October 25, 1995, a tank car containing nitrogen tetroxide ruptured in Bogalusa, Louisiana, causing evacuation of a large part of the town. The emergency plans of St. Tammany and Washington parishes, written and updated in part with HMEP grants funds, were implemented during this accident. Sergeant Robert Pinero of the Louisiana State Police said, ''Twelve State and local agencies involved in the Bogalusa response received training because of the HMEP Grants Program and we were able to effectively respond to this accident.''
- On April 21, 1996, an explosion at a chemical plant in Lodi, New Jersey, killed four people. Local emergency plans had recently been updated with HMEP grant funds to include a transportation perspective and updated mutual aid plans. According to Sergeant Lance Oram of the New Jersey State Police, ''Mutual aid from surrounding communities, made possible by updated plans, was critical to limiting the effect of the accident, as was hazardous materials emergency training of local responders.''
- The Commonwealth of Virginia has implemented a hazardous materials response team organization in part with HMEP funding. Steven Patrick, Hazardous Materials Officer for the Virginia State Department of Emergency Services, stated, ''It would have been impossible to implement or maintain the response team organization without the training and planning grants provided by the HMEP Grants Program.'' Virginia's regional response team approach was used in Lynchburg, Virginia, on March 31, 1998, when a 61-car freight train carrying acetone derailed and an explosion and fire occurred, resulting in the evacuation of a 36-block area, including a school, and $1 million in damages to a nearby storage warehouse. Two regional hazardous materials teams trained to the technician level using HMEP grant funds responded to this accident. The availability of trained teams was instrumental in minimizing the time and expense necessary to respond to the accident according to the Virginia Department of Emergency Services.

2. Increased Funding of the HMEP Grants Program

The HMEP Grants Program has accomplished much in a short period of time, but many needs are not being met. Between 1993 and 1998, the average of $6.4 million available for planning and training grants has been only 50% of the $12.8 million authorized by the law for these purposes ($5 million for planning and $7.8 million for training). The HMEP training grants are essential for providing adequate training of those persons throughout the nation responsible for responding to emergencies involving the release of hazardous materials, both through direct Federal financial assistance for such training and by encouraging the provision of additional state and local funds for this purpose.

In a recent review, RSPA estimated that 800,000 shipments of hazardous materials make their way through the national transportation system each day. These shipments range in size and type from single small parcels of consumer commodities, such as flammable adhesives and corrosive paint strippers, to bulk shipments of gasoline in cargo tank motor vehicles and flammable or toxic gases in railroad tank cars. Such shipments are transported in every State, every day of the year, and it is impossible to predict with any degree of certainty when and where an incident may occur. The potential threat requires the development of emergency plans and training of emergency responders on the broadest possible scale. Yet, RSPA also believes there are over 2 million emergency responders requiring initial training or periodic recertification training, including more than 250,000 paid firefighters, 800,000 volunteer firefighters, 725,000 law enforcement officers, and 500,000 emergency medical services (EMS) providers.

The continuing need for training for emergency response personnel, whether paid or volunteer, is partially the result of a relatively high rate of turnover. Emergency response personnel must be available at any time and at a moment's notice to respond to situations that by their very nature are unpredictable and pose a threat not only to the public in general but to the responder in particular. This turnover means that each year there is a significant number of recently recruited responders who must be trained at the most basic level.

In addition, training at more advanced levels is not simply desirable, it is essential if emergency response personnel capable of effectively and safely responding to serious releases of hazardous materials are to be provided. For this reason, RSPA advocates advanced training at the first responder operations, hazardous materials technician, hazardous materials specialist, and on-scene commander levels in every emergency response team in the country. An increase in the funds available to the HMEP Grants Program will encourage the State, tribal, and local agencies to provide this more advanced, and more expensive, training.

The unmet needs of States and Native American tribes for financial assistance in emergency preparedness planning and training for transportation-related incidents involving hazardous materials are great. RSPA is determined to narrow the current gap between the authorized grant levels and the available Federal funds by its careful targeting of the additional funds collected as a result of this rulemaking. RSPA believes that it is essential to increase the awards for emergency planning and training grants to the full $12.8 million authorized by the law and, at the same time, maintain current funding of the additional activities supported by the HMEP Grants Program described above. We fully expect that the additional funds collected as a result of this rulemaking effort will enable us to achieve that objective. For FY–2000, RSPA is seeking Congressional appropriations of $14.3 million in support of HMEP Grants Program activities to permit funding for:

- Training and planning grants ($12.8 million);
- Grants/support to certain national organizations to train instructors to conduct hazardous materials response training programs ($250,000);
- Revising, publishing, and distributing the North American Emergency Response Guidebook ($600,000 per year average);
- Monitoring and technical assistance ($150,000);
- Continuing development of a national training curriculum ($200,000); and
- Administering the grants program ($300,000).

II. Meeting the Need for Increased Funding

A. Publicity Campaigns to Notify Affected Persons

RSPA has conducted extensive outreach efforts to increase awareness of the registration requirement. Approximately 780,000 informational brochures have been distributed through direct mailing campaigns and during presentations to industry. Those mailing campaigns targeted, among others:

(1) More than 60,000 carriers and shippers identified as carriers or shippers of hazardous materials by the Federal Highway Administration's (FHWA) Office of Motor Carriers (OMC);

(2) 6,000 motor carriers required to maintain financial responsibility in the amount of $1 million or $5 million in insurance;

(3) 700 railroad companies known to the Federal Railroad Administration (FRA);

(4) More than 22,000 generators and 13,000 transporters of hazardous waste identified by the Environmental Protection Agency;

(5) Over 16,500 carriers and shippers identified in RSPA's Hazardous Materials Incident Reporting System;

(6) Approximately 4,000 holders of hazardous materials exemptions issued by RSPA;

(7) Thousands of shippers and carriers who are members of trade associations with interests in the transportation of hazardous materials; and

(8) Thousands of carriers and shippers known to State agencies.

To avoid duplication of mailings when possible, RSPA has cross-checked its registration data base with other lists provided by the various Federal and State agencies and industry sources. Annually, RSPA mails registration brochures and forms to hazardous materials shippers and carriers newly entered into the OMC census of highway carriers and shippers and into the RSPA list of shippers and carriers named on the hazardous materials incident report form. The registration program has been publicized in trade magazines and industry newsletters. Seven notices of the registration requirements have been published in the **Federal Register**.

B. Measures to Enhance Compliance

Many commenters to Docket HM–208B (60 FR 5822, January 30, 1995) questioned whether a significant number of persons required to register failed to do so, and whether an accelerated enforcement program would raise sufficient funds to support the HMEP Grants Program fully. In 1994, to ensure compliance with the registration requirements, RSPA proposed that offerors and transporters verify the registration status of each other before transportation begins (Docket HM–208A, 59 FR 15602, April 1, 1994). Most commenters opposed this proposal. Commenters overwhelmingly believed that Federal and State agencies, and not industry, should be responsible for enforcing the regulations. Commenters opposing this proposal cited logistical problems, administrative burdens, and increased costs as reasons for their opposition. RSPA did not adopt the proposal in the final rule (59 FR 32930, June 27, 1994).

The DOT modal administrations have incorporated verification of registration into their normal compliance inspection routines. Enforcement efforts sponsored by FHWA indicate a relatively high compliance rate by motor carriers. Enforcement of the registration requirements was a key element of ROADCHECK–93, and ROADCHECK–95, nationwide inspection efforts led by FHWA. In ROADCHECK–93, of 2,300 placarded trucks that were checked for proof of registration, 88% were registered and had proof on board. Of the 12% that did not have proof on board, 80% were already registered. In ROADCHECK–95, 1,220 placarded trucks were stopped. Of these, 91% were registered and had proof of registration on board. Of the 9% that did not have proof on board, 60% were registered. This indicates a compliance rate among highway carriers of over 95%.

The safety compliance reviews conducted by FHWA (motor carriers) and RSPA (non-bulk shippers and other offerors) confirm high rates of compliance with the registration rule by industry. The following table contains a summary of compliance statistics.

SUMMARY OF COMPLIANCE REVIEWS—HAZARDOUS MATERIALS REGISTRATION RULE (1995–1997)

Period and agency	Number of inspections	Number of citations for failure to register	Percent of failures to register
FY 95 FHWA	2,338	100	4.3
FY 96 FHWA	3,215	79	2.5
FY 97 FHWA	1,369	44	3.2

SUMMARY OF COMPLIANCE REVIEWS—HAZARDOUS MATERIALS REGISTRATION RULE (1995–1997)—Continued

Period and agency	Number of inspections	Number of citations for failure to register	Percent of failures to register
FY 98 FHWA	2,032	35	1.7
CY 95 RSPA	586	19	3.2
CY 96 RSPA	610	15	2.5
CY 97 RSPA	875	20	2.3
CY 98 RSPA	1,053	26	2.5

FRA publicized the registration program through technical bulletins and informational brochures distributed to its regional offices and all FRA inspectors. FRA checks for registrations during compliance reviews and issues notices of defects for failure to register. FRA, FHWA, and 28 State enforcement agencies have issued more than 700 informal notices of the requirement to register, a form developed for use in ROADCHECK–93, but used beyond that operation. The majority of these notices were issued in 1993, 1994, and 1995.

RSPA's goal remains 100% compliance. Therefore, RSPA once again requests assistance from all interested persons to identify those elements of affected industries, or individual companies, that they suspect are required to file a registration statement and pay a fee, but have not done so. Suspected violations of the registration requirements, as well as other possible violations of the Hazardous Materials Regulations, may be reported by calling RSPA's Hazardous Materials Regulations Information Center at (800) 467–4922.

C. DOT Inspector General Recommendations

In 1996 the DOT Office of Inspector General performed a review of the hazardous materials registration program, concentrating on RSPA's efforts to inform the public of the registration requirements. The OIG issued a ''Management Advisory'' on April 3, 1998, as a result of this review, which made several recommendations, including one that called on RSPA to establish a graduated registration fee schedule based on the types and quantities of hazardous materials transported in order to increase the grants program funds. That recommendation is addressed in this notice. The other recommendations were related to increasing RSPA's efforts to encourage compliance with the current registration requirements through additional public information efforts.

To implement these recommendations, in May 1998 RSPA sent brochures to 42,300 companies that were identified as carriers or shippers of hazardous materials by the OMC. All of these companies had previously been sent information on the registration program since 1992. In October 1998 RSPA resent brochures to 33,000 of these companies in an effort to ensure that companies likely to be required to register had been informed of the registration program. RSPA also mailed registration information to 6,229 companies in the OMC insurance record database that are insured for $1 million or $5 million. RSPA estimates that approximately 800 companies registered as a result of the May 1998 mailing and approximately 200 in response to the October 1998 mailing. While these new registrations provide an additional $250,000 in annual fees to support the HMEP Grants Program, it is an amount far short of what is necessary to enhance funding for the program at the intended level. The results of this effort are consistent with RSPA's finding that at least 90% of the persons required to file a registration statement and pay a fee are complying with the current rule, and that little additional levels of revenue may be obtained by a more aggressive compliance enforcement effort.

D. RSPA's Past Proposal to Increase Funding the Grants Program

On January 30, 1995, RSPA published a notice of proposed rulemaking under Docket HM–208B (60 FR 5822) proposing a three-tier registration fee schedule. The proposed registration fee schedule was based on various factors related to the extent of a company's involvement in the transportation of hazardous materials. After considering over 300 comments from the public and other interested parties, RSPA concluded that it needed more time to assess the registration and grant programs and to reconsider fee equity based on the risks posed by various types and quantities of hazardous materials. A final rule adopting some minor revisions to the registration program, but maintaining a flat fee of $300, was published on May 23, 1995 (60 FR 27231). In the four years since that proposal, providing funds to support planning and training aspects of the HMEP Grants Program at the levels authorized by Congress has been an important goal for RSPA and the grant recipients.

E. Negotiated Rulemaking Convening Report

RSPA has considered advice, comments, and suggestions from the public and interested industry groups made in previous rulemakings, and at meetings, seminars, workshops, and discussions concerning the reauthorization of the hazardous materials safety program. In the Spring of 1998, in anticipation of this proposed rulemaking, RSPA awarded a contract to assess the feasibility of addressing this issue through a negotiated rulemaking. The convenor contacted approximately 40 representatives of the hazardous materials industry and State regulatory agencies affected by the registration and grants programs to ascertain issues of concern to these parties. The convenor recommended that RSPA should proceed to use the negotiated rulemaking process to develop an NPRM on the registration and fee requirements.

Although RSPA determined not to convene a committee, the convening report has been useful in formulating this current proposal. A copy of the Convening Report has been entered into this docket and is available for review through DOT's Docket Unit and via the Internet at the URL indicated in the addresses section of this document.

III. Proposal to Increase Funding of the HMEP Grants Program

In setting a registration fee, RSPA believes that its proposal should meet the following objectives: (1) Be simple, straightforward, and easily implemented and enforced; (2) employ an equity factor that reflects the differences between the risk imposed on the public by the business activities of large and small businesses; (3) ensure the adequacy of funding for the HMEP Grants Program; and (4) be consistent with the law.

Alternatives considered by RSPA for increasing the funds available for the HMEP Grants Program included: (1) Increasing the flat fee imposed on current registrants; (2) imposing a flat-fee on an expanded base of registrants; (3) imposing a two-tier fee schedule on the current registrants; and (4) imposing a two-tier fee schedule on an expanded base of registrants. RSPA has concluded that imposing a two-tiered fee schedule on an expanded base of registrants is the best approach to meet the objectives listed above. The preliminary regulatory evaluation prepared in support of this notice of proposed rulemaking contains a discussion of each of those alternatives. A copy of the preliminary regulatory evaluation was entered into the docket and is available for review by all interested parties.

A. Impose a Two-Tier Fee Schedule on an Expanded Base of Registrants

RSPA proposes to expand the number of persons required to register and to impose a fee schedule based on the size of the business. The base of registrants would be expanded to all persons offering or transporting a shipment of hazardous materials that requires placarding, with the exception of farmers, as discussed below. A two-tier fee schedule would be created, with the lower fee imposed on registrants meeting the U.S. Small Business Administration (SBA) criteria for a small business, also discussed below. This alternative would distribute fees according to a long-established measurement of business size and ensure the collection of sufficient funds to support the HMEP Grants Program at an enhanced level. Under this proposal, RSPA would achieve its goal of raising $14.3 million annually (exclusive of funds collected for administrative processing), by collecting a fee of $300 (which includes a $25 processing fee) from approximately 43,500 registrants that are small businesses and a fee of $2,000 (which includes a $25 processing fee) from an estimated 1,500 registrants not meeting the criteria for a small business. Should the amount actually collected exceed $14.3 million, the law, at § 5108(g)(2)(B), specifies that the Secretary of Transportation shall adjust the amount being collected to reflect any unexpended balance in the account. However, the Secretary is not required to refund any fee.

This alternative recognizes the risks posed to health and safety or property by the transportation of hazardous materials in significant quantities that require placarding. It would require that shippers, carriers and other persons involved in the shipment of a placarded load of hazardous materials bear a fair share of the financial burden that falls on State and local government agencies to develop emergency plans and to train first-on-the-scene responders.

Expanded Base

RSPA proposes to expand the base of persons required to register to include, with one exception, offerors, carriers, and other persons who transport or cause to be transported hazardous materials in a bulk packaging, freight container, unit load device, transport vehicle, or rail car that must display a hazard warning placard, under the provisions of subpart F of part 172 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180).

The one exception is for those activities of a ''farmer,'' as defined in § 171.8 of the HMR, that support the farmers farming operations. Absent this exception, the registration rule would potentially apply to a very large number of the nation's more than two million farms. If the actual number of affected farmers were only one percent of the total number of farms, *i.e.*, 20,600, that segment of the economy would nearly equal the current number of 27,000 registrants drawn from all segments of the economy. However, this is not a blanket exception for all farmers from the registration rule. If a farmer offers for transportation or transports in commerce a hazardous material that is specifically identified in § 5108(a)(1) of the law, that farmer must submit a registration statement and pay the required fee.

RSPA's proposal to expand the base of persons required to register by including all placarded loads is responsive to concerns raised by numerous persons who participated in earlier rulemaking proceedings on this topic and through the convening process discussed earlier in this preamble. This proposed expansion of the base to include all placarded loads incorporates three important elements. First, the classes and quantities of hazardous materials for which placarding is required pose a substantial threat to health and safety or property during transportation. Second, the application of generally well understood hazard communication criteria for placarding greatly simplifies the matter of whether a shipper, carrier or other person is required to register. Simplification of the regulations similarly makes the rule much easier to enforce, thereby further assuring a high rate of compliance. Third, by expanding the scope of the registration rule RSPA expects that it will have the financial resources necessary to increase funding of planning and training grants under the HMEP Grants Program to levels currently authorized by the law.

RSPA estimates that the proposed expansion of the universe of additional persons required to register will result in an additional 15,000 to 18,000 registrations, for a total of 42,000 to 45,000 annually. This is based on RSPA's review of the best available data from a number of sources, including the FHWA's Office of Motor Carriers (OMC) database of motor carriers and their shippers, the 1992 Truck Inventory and Use Survey conducted by the U.S. Census Bureau, and the 1992 Economic Census, also conducted by the U.S. Census Bureau.

While none of these sources discussed above contain the number of persons who offer or transport hazardous materials in shipments that require placarding, RSPA believes its estimate of the total number of registrants is conservative and reasonable. We request information on other sources from which to better estimate the number of persons who would be required to register under the proposed rule. If such new information suggests a number significantly larger than RSPA's current estimate, RSPA would consider adjusting the proposed registration fees to avoid collecting an amount in excess of the $14.3 million needed to enhance funding of the HMEP Grants Program.

In addition, RSPA is interested in public comments on the advisability of expanding the number of persons required to register as proposed above, especially in relation to the economic impact of adopting or not adopting this element of the proposal.

Two-tier Schedule of Fees

RSPA proposes a two-tier fee schedule based on information that: (1) Is readily available to potential registrants; (2) can be verified by inspection and enforcement personnel; and (3) is based on one or more of the fee determinants permitted by law. Although the registration statement is excepted by 49 U.S.C. 5108 from requirements of the Paperwork Reduction Act, RSPA seeks to avoid any approach that entails a large record keeping and accounting burden on industry and the government. For example, basing the annual registration fee on a person's hazardous materials shipments could require significant changes in the way a registrant handles its paperwork tracking and accounting procedures. Further, law enforcement personnel would have to verify this information in order to ensure that a person's annual fee is in fact commensurate with its activities.

RSPA believes that its goals are best met by establishing a two-tier fee schedule under which a company not meeting the small-business criterion established for it by the SBA at 13 CFR 121.201 pays a larger fee than that required for a small business. Upon careful review of census data concerning establishments identified by SIC codes corresponding to operations involving the likely manufacture, distribution, or sale (wholesale and retail) of hazardous materials, RSPA estimates that of the 27,000 current registrants, approximately 1,000 registrants do not qualify as a SBA small business. If the base of registrants is expanded to include all persons who offer or transport placarded shipments, RSPA estimates that 1,500 shippers, carriers, and offerors of hazardous materials would not qualify as a SBA small business, while an estimated 43,500 registrants would meet the criterion established by SBA appropriate to their commercial activity.

RSPA believes this regulatory approach provides fee levels that reflect a key factor contained in 49 U.S.C. 5108(g)(2)(A), specifically, the relative size of a business. In addition, this proposal addresses the different levels of risk posed by smaller companies that are engaged in fewer and smaller shipments of hazardous materials as compared to larger companies that annually manufacture, offer, and transport thousands of tons of hazardous materials. RSPA maintains that five of the specific factors permitted by 49 U.S.C. 5108(g)(2)(A) as fee determinants were intended to be indications of the level of risk imposed by the registrant, and that two were intended to be indications of the size of the business (see the list of fee determinants above). Use of the SBA standards for differentiating small businesses offers a simple and direct factor that is commonly used and established by Federal regulation. The use of alternative size criteria, even though they could be defined to reflect, for instance, the relative percentage of specific hazardous materials related businesses, would impose additional and possibly significant record-keeping requirements on the registrants.

RSPA believes that the use of the SBA size criteria as a fee determinant will not impose any additional recordkeeping requirements on the registrants since existing personnel and payroll records can be used to substantiate the number of employees, and financial records subject to routine audits can be used to substantiate gross annual receipts.

The SBA size standards for small businesses are readily available and relatively simple to apply to a business. Each Standard Industrial Code is assigned a standard that is either the number of employees or the gross annual receipts of the business. If a registrant's number of employees or gross annual receipts is equal to or less than the standard assigned to the SIC category that best describes its commercial activities, it qualifies as a small business. In most instances a registrant will be able to immediately determine whether it meets the small business definition. For instance, the size standard for SIC Division D (Manufacturing) is the number of employees, and depending on the product manufactured can be 500, 750, 1000, or 1,500. Any registrant whose primary business is manufacturing that employs 500 persons or less, will qualify as a small business, and, again depending on the SIC code, may qualify as a small business with up to 750 or 1000 employees. Registrants whose primary business falls within the SIC Major Group ''Motor Freight Transportation and Warehousing'' are defined as small businesses if the gross annual receipts are equal to or less than $18.5 million, with two exceptions (''Garbage and Refuse Collection, without Disposal'' has an upper limit of $6.0 million, and ''Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation'' has a limit of $5.0 million). Here again, RSPA believes that most motor carriers will immediately recognize whether they meet the SBA criterion for a small business.

The SBA size criteria in 13 CFR part 121 are applied to a ''business concern'' or ''business entity.'' For the purposes of determining the appropriate registration fee, the SBA criteria are to be applied to the registering ''person'' as defined in 49 CFR 107.3, even if that ''person'' is substantively different from the SBA ''concern'' or ''entity.'' For example, the SBA, at 13 CFR 121.103(a), sometimes looks beyond the specific operations of a legally organized business to consider whether its affiliation with another business concern or business entity through identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, may be treated as one party with such interests aggregated. In its application of requirements for registration RSPA makes no such distinction and each business concern or business entity subject to the registration regulation would be required to file a separate registration statement and pay the appropriate fee.

Under this proposal, a foreign carrier that transports a specified type and quantity of hazardous material within the United States would have to determine its small-business status by applying the criteria in 13 CFR 121.201, using the U.S. Dollar equivalent of annual receipts or the number of employees, as appropriate.

RSPA is interested in public comments on the advisability of imposing a two-tier schedule of fees as proposed above, particularly in relation to the alternative of maintaining the greater simplicity of a flat fee collected from all registrants regardless of their business size or amount and type of hazardous materials activities.

Lower Administrative Fee for All Registrants.

In this notice, RSPA proposes to reduce the processing fee to $25 in order to bring the aggregate amount collected closer to the amounts needed to process the registration statement and to issue the Certificate of Registration. All amounts collected by RSPA (including the processing fee) are deposited into the U.S. Treasury, and Congress appropriates funds for RSPA to process registration statements, issue registration certificates, and perform the related parts of the registration program. In Fiscal Years 1996–99, the amounts needed by RSPA to administer the registration program, and appropriated by Congress, have been about one-half of the total processing fees collected. Although the current proposal would increase the number of persons required to register and pay a registration fee, RSPA estimates that a processing fee of $25 per registration statement will still be necessary and sufficient to administer the registration program at that level.

B. Registration Procedures

In connection with the proposed fee schedule, RSPA notes that additional information would be required on the Registration Statement submitted by persons subject to the registration requirements. The proposed new information includes the SIC Code and certification of whether the registrant meets the SBA standards for a small business. The SIC Code would replace the former indication of ''Industrial Classification'' on the Registration Statement.

At the request of various industry representatives, RSPA is also proposing to permit registration for one, two, or three years on a single registration

statement. Registration for more than a single year would be strictly optional. Registrants that register for years in advance would not receive RSPA's courtesy mailing of registration materials in the years for which they have pre-registered, but would receive a notice to register when their current registration is about to expire. A single administrative fee of $25 would be collected for each registration statement submitted under this proposal, whether for one, two, or three years, and a single registration statement and number would be issued for the entire period.

IV. Fiscal Year 2000 Budget Request and Hazardous Materials Transportation Reauthorization Proposal

The Administration's Fiscal Year 2000 Budget and the Hazardous Materials Transportation Reauthorization proposals to Congress include legislative authority to fund RSPA's entire Hazardous Materials Safety Program from the registration fee program, beginning with the fourth quarter of fiscal year 2000. If this authority is granted, RSPA will initiate additional rulemaking action to collect the approximately $32.5 million needed to adequately fund both the HMEP Grants program ($14.3 million) and the remainder of RSPA's Hazardous Materials Program ($18.2 million).

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and was reviewed by the Office of Management and Budget. The rule is considered significant under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034]. A regulatory evaluation is available for review in the public docket. This proposal is intended to collect annual registration fees in the amount of $14.3 million to support activities of the HMEP Grants Program. Because Federal hazardous materials transportation law mandates the establishment and collection of fees, the discretionary aspects of this rulemaking are limited to setting the amount of the fee within the statutory range for each person subject to the registration program, and to extending the registration requirements to persons who transport or cause the transportation of hazardous materials but who are not specifically required to register by law. The proposed fees are not related to the cost of RSPA's hazardous materials safety programs. The fees to be paid by shippers and carriers of certain hazardous materials in transportation are related to the benefits received by these persons from the sale and transportation of hazardous materials and from emergency response services provided by public sector resources, should an accident or incident occur. The fees are also related to expenses incurred by State, Native American tribal, and local hazardous materials emergency preparedness and response activities.

B. Executive Order 12612

This action has been analyzed in accordance with Executive Order 12612 (''Federalism''). States and local governments are ''persons'' under 49 U.S.C. 5102, but are specifically exempted from the requirement to file a registration statement. The regulations herein have no substantial effects on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various levels of government. This registration regulation has no preemptive effect. It does not impair the ability of States, local governments or Native American tribes to impose their own fees or registration or permit requirements on intrastate, interstate or foreign offerors or carriers of hazardous materials. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

C. Executive Order 13084

RSPA believes that revised regulations evolving from this NPRM would have no significant or unique effect on the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Therefore, the funding and consultation requirements of this Executive Order would not apply. Nevertheless, this NPRM specifically requests comments from affected persons, including Indian tribal governments, as to its potential impact.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to review regulations and assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. Based on its preliminary regulatory evaluation prepared in support of this proposal, RSPA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposal would expand the number of persons subject to RSPA's registration and fee program to include all persons who offer for transportation or transport a shipment of hazardous materials required to be placarded. RSPA is also proposing to maintain at the current level the combined registration and processing fee in the amount of $300 as authorized by the Federal hazardous materials transportation law for persons meeting the Small Business Administration (SBA) definition of small business. In addition, RSPA is proposing a limited exception for farmers that offer for transportation or transport certain shipments of hazardous materials in support of their farm operations.

Approximately 27,000 persons registered with RSPA for each of the last two registration years, and these persons are expected to engage in hazardous materials transportation activities that require registration in the coming years. Approximately 65% (17,550) of these persons are carriers or carriers-and-shippers, the remaining 35% (9,450) being shippers or other offerors who do not transport hazardous materials. RSPA estimates that the proposed expansion of the universe of persons required to register will result in an additional 15,000 to 18,000 registrations, for a total of 42,000 to 45,000 annual registrations. This represents the least number of registrations that can be reasonably expected under the proposed rule.

The 1992 Truck Inventory and Use Survey (TIUS–92) conducted by the Bureau of the Census as part of the Census of Transportation indicates that there were 17 million trucks (not including pickups, vans, utility vehicles, and station wagons) in the United States. Except for a few specialized vehicle types, essentially all of those 17 million trucks may be used in the transportation of hazardous materials. With deregulation of the trucking industry there are essentially no economic barriers to entry into this field of transportation; carriers that are ready, willing, and able to transport hazardous materials are generally free to do so. The data indicate that only 360,000 of the 17 million trucks are actually used to carry placarded shipments of hazardous materials. The number of companies maintaining these trucks was not included in the census, but fleet sizes were provided. The number of fleets that included a truck that carried hazardous materials is estimated to be 40,000. This number contains an undetermined number of

farmers who would be excepted under the proposed rule.

The number of persons who offer shipments of hazardous materials for transportation exclusively by rail, air, or water is thought to be quite small by comparison to multi-modal shippers, and probably does not exceed 500 to 1,000. An increase is expected in the number of motor carriers that would be required to register and in the number of persons that offer shipments of hazardous materials that require placarding for transportation. RSPA expects that the estimated 15,000 to 18,000 new registrants will be divided in approximately the same proportion as the current mix of registrants, i.e., 65% (9,750 to 11,700) would be carriers or carriers-and-shippers, and 35% (5,250 to 6,300) would be persons who never transport their own shipments of hazardous materials. Of the estimated 15,000 to 18,000 new registrants, RSPA estimates that all but 400 to 500 are small businesses.

RSPA believes the $300 in annual registration fees is so small as to not constitute a significant burden on any small business. For example, an independent owner-operator, i.e., a motor carrier not operating under lease to a registered motor carrier, probably represents the smallest of all small businesses potentially subject to requirements in this proposed rule. These owner-operators typically own one truck and average 2,000 revenue-miles per week at an estimated cost per mile of $0.80 cents. Assuming the typical independent owner-operator is in service 40 weeks per year, the additional cost per mile attributed to $300 in registration and processing fees is $0.00375 cents. Stated differently, the independent owner-operator's increased cost of doing business would be less that one-half of 1% of current costs. That does not represent a significant impact on an independent owner-operator's cost of doing business.

As indicated above, there are nearly 17 million vehicles in either private commercial operations or for-hire service. Assuming, on the basis of census data, that one-truck-only operators comprise 28% of the national fleet, it follows that there are at least 4.25 million concerns that could, at their discretion, engage in the transportation of hazardous materials. In this analysis, RSPA notes that the estimated total number of 9,750 to 11,700 persons described as carriers or carriers-and-shippers that the agency expects would be subject to the requirement to register is less than one-half of 1% of the 4.25 million very small carriers that comprise the for-hire and commercial business services sector of the national economy. That is neither a substantial number of all potentially affected transporters, nor is it a substantial number of the 97% of those operators that RSPA believes meet SBA criteria for a small business.

E. Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This proposed rule is the least burdensome alternative that achieves the objective of the rule.

F. Paperwork Reduction Act

Under 49 U.S.C. 5108(i), reporting and recordkeeping requirements pertaining to the registration rule are specifically excepted from information management requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

G. Impact on Business Processes and Computer Systems (Year 2000)

Many computers that use two digits to keep track of dates may, on January 1, 2000, recognize ''double zero'' not as 2000 but as 1900. This glitch, the Year 2000 problem, could cause computers to stop running or to start generating erroneous data. The Year 2000 problem poses a threat to the global economy in which Americans live and work. With the help of the President's Council on Year 2000 Conversion, Federal agencies are reaching out to increase awareness of the problem and to offer support. We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to the Year 2000 problem.

This NPRM does not propose business process changes or require modification to computer systems. Because the NPRM apparently does not affect organizations' ability to respond to the Year 2000 problem, we do not intend to delay the effectiveness of the proposed requirements in the NPRM.

H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

Accordingly, RSPA proposes to amend 49 CFR part 107 as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; Sec. 212–213, Pub. L. 104–121, 110 Stat. 857; 49 CFR 1.45, 1.53.

Subpart G—Registration of Persons Who Offer or Transport Hazardous Materials

2. Section 107.601 would be revised to read as follows:

§ 107.601 Applicability

(a) The registration and fee requirements of this subpart apply to any person who offers for transportation, or transports, in foreign, interstate or intrastate commerce—

(1) A highway route-controlled quantity of a Class 7 (radioactive) material, as defined in § 173.403 of this chapter;

(2) More than 25 kg (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material (see § 173.50 of this chapter) in a motor vehicle, rail car or freight container;

(3) More than one L (1.06 quarts) per package of a material extremely toxic by inhalation (i.e., ''material poisonous by inhalation,'' as defined in § 171.8 of this chapter, that meets the criteria for ''hazard zone A,'' as specified in §§ 173.116(a) or 173.133(a) of this chapter);

(4) A shipment of a quantity of hazardous materials in a bulk packaging (see § 171.8 of this chapter) having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids;

(5) A shipment in other than a bulk packaging of 2,268 kg (5,000 pounds) gross weight or more of one class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class, under the provisions of subpart F of part 172 of this chapter; or

(6) Except as provided in paragraph (b) of this section, a quantity of hazardous material that requires

placarding, under provisions of subpart F of part 172 of this chapter.

(b) Paragraph (a)(6) of this section does not apply to those activities of a farmer, as defined in § 171.8 of this chapter, that are in direct support of the farmers farming operations.

(c) In this subpart, the term ''shipment'' means the offering or loading of hazardous material at one loading facility using one transport vehicle, or the transport of that transport vehicle.

3. In § 107.608, paragraphs (a), (b), and (d) would be revised to read as follows:

§ 107.608 General registration requirements.

(a) Except as provided in § 107.616(d), each person subject to this subpart must submit a complete and accurate registration statement on DOT Form F 5800.2 not later than June 30 for each registration year, or in time to comply with paragraph (b) of this section, whichever is later. Each registration year begins on July 1 and ends on June 30 of the following year.

(b) No person required to file a registration statement may transport a hazardous material or cause a hazardous material to be transported or shipped, unless such person has on file, in accordance with § 107.620, a current Certificate of Registration in accordance with the requirements of this subpart.

* * * * *

(d) Copies of DOT Form F 5800.2 and instructions for its completion may be obtained from the Hazardous Materials Registration Program, DHM–60, U.S. Department of Transportation, Washington, DC 20590–0001, by calling 617–494–2545 or 202–366–4109, or via the Internet at http://hazmat.dot.gov.

* * * * *

4. Section 107.612 would be revised to read as follows:

§ 107.612 Amount of fee.

(a) *Registration year 1999–2000 and earlier.* For all registration years through 1999–2000, each person subject to the requirements of § 107.601(a)(1)–(5) must pay an annual fee of $300 (which includes a $50 processing fee).

(b) *Registration year 2000–2001 and following.* For each registration year beginning with 2000–2001, each person subject to the requirements of this subpart must pay an annual fee as follows:

(1) *Small business.* Each person that qualifies as a small business under criteria specified in 13 CFR part 121 applicable to the standard industrial classification (SIC) code that describes that person's primary commercial activity must pay an annual fee of $300 (which includes a $25 processing fee).

(2) *Other than a small business.* Each person that does not meet criteria specified in paragraph (b)(1) of this section must pay an annual fee of $2,000 (which includes a $25 processing fee).

(3) The processing fee is limited to $25 for each registration statement filed for more than one year, as provided in § 107.616(c).

5. In § 107.616, paragraphs (c) and (d)(2) would be revised to read as follows:

§ 107.616 Payment procedures.

* * * * *

(c) Payment must correspond to the total fees properly calculated in the ''AMOUNT DUE'' block of the DOT Form F 5800.2. A person may elect to register and pay the required fees for up to three registration years by filing one complete and accurate registration statement.

(d) * * *

(2) Pay a registration and processing fee of $350 (including a $50 expedited handling fee). For registration years 2000–2001 and following, persons who do not meet the criteria for a small business, as specified in § 107.612(b)(1), must enclose payment of $1,700 with the expedited follow-up material, for a total of $2,050 (including a $50 expedited handling fee); and

* * * * *

Issued in Washington, D.C. on April 12, 1999, under authority delegated in 49 CFR part 106.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

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